City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8267

Planning Commission Tentative Agenda

Thursday, March 23, 2023

4:30 PM

City Hall Room 111

Planning Commission Members

Sarah Sparkman, Chair
Matthew Johnson, Vice Chair
Quintin Canada, Secretary
Andrew Brink
Jimm Garlock
Joseph Holcomb
Mary Madden
Mary McGetrick
Porter Winston

Assistant City Attorney Blake Pennington

Call to Order

Roll Call

Consent

1. Minutes

Approval of the minutes from the March 13th, 2023 Planning Commission -

2. VAR-2023-0007: Planning Commission Variance (4136 N. HUNGATE LN/SOWELL, 141):

Submitted by BLEW & ASSOCIATES for property located at 4136 N. HUNGATE LN. The property is in the FAYETTEVILLE PLANNING AREA and contains approximately 2.78 acres. The request is for a variance from minimum lot width requirements. - Gretchen Harrison, Planner

3. VAR-2023-0008: Planning Commission Variance (W. OF ELKHORN SPRINGS AND HWY 16/INGRAM, 430):

Submitted by BLEW & ASSOCIATES for property located on W. OF ELKHORN SPRINGS AND HWY 16. The property is in the FAYETTEVILLE PLANNING AREA and contains approximately 12.44 acres. The request is for a variance to UDC §166.08(E) – Block Layout/Connectivity for a double-street frontage lot. - Ryan Umberger, Senior Planner

Unfinished Business

4. LSD-2022-0041: Large Scale Development (N. HWY 112/112 ARONSON, 209):

Submitted by ENGINEERING SERVICES INC. for property located on N. HWY. 112. The property is zoned C-2, THOROUGHFARE COMMERCIAL and UT, URBAN THOROUGHFARE and contains approximately 31.20 acres. The request is for a development with 214 residential units, 40,000 sq. ft. movie theater, and associated parking.

THIS ITEM WAS TABLED AT THE MARCH 13, 2023 PLANNING COMMISSION MEETING. - Jessica Masters, Development Review Manager

5. LSD-2023-0001: Large Scale Development (2373 N. GREGG AVE/JRG HOLDINGS, LLC, 328):

Submitted by JORGENSEN & ASSOCIATES for property located at 2373 N. GREGG AVE. The property is zoned I-1, HEAVY COMMERCIAL AND LIGHT INDUSTRIAL and contains approx. 3.79 acres. The request is for a 12,000

square foot warehouse building and additional paved laydown area.

THIS ITEM WAS TABLED AT THE MARCH 13, 2023 PLANNING COMMISSION MEETING. - Gretchen Harrison, Planner

6. CUP-2023-0023: Conditional Use Permit (704 S. WASHINGTON AVE/BOTTLE ROCKET LLC, 569):

Submitted by BOTTLE ROCKET SUBS, LLC for property located at 704 S. WASHINGTON AVE. The property is zoned DG, DOWNTOWN GENERAL and contains approximately 0.90 acres (including parking on adjacent parcel). The request is for Use Unit 14: Hotel, Motel, and Amusement Services in DG zoning with off-site parking.

THIS ITEM WAS TABLED AT THE MARCH 13, 2023 PLANNING COMMISSION MEETING. - Donna Wonsower, Planner

New Business

7. ADM-2023-0001: Administrative Item (Amend UDC Chapter 151 Definitions, Chapter 161 Zoning Regulations, And Chapter 166 Development):

Submitted by CITY OF FAYETTEVILLE STAFF. The request is to amend Chapter 151 - Definitions, Chapter 161 - Zoning Regulations, and Chapter 166 - Sections 166.08 Street Design and Access and 166.23 Urban Design Standards to be consistent with Chapter 162 - Use Units. The purpose of the amendment is to provide consistent and clear language for two-family, three- and four-family, and multi-family dwellings. - Sherry Smith, Long Range and Preservation Planner

8. VAR-2022-0064: Planning Commission Variance (S. SMOKEHOUSE TRL AND W. MARTIN LUTHER KING JR BLVD/JIFFY TRIP, 595):

Submitted by ENVIROTECH ENGINEERING AND CONSULTING for property located at S. SMOKEHOUSE TRL AND W. MARTIN LUTHER KING JR BLVD. The property is zoned UT, URBAN THOROUGHFARE and contains approximately 2.09 acres. The request is a variance from parking lot design and access management standards. - Gretchen Harrison, Planner

9. VAR-2023-0001: Planning Commission Variance (N. WASHINGTON AVE/SPRING STREET COTTAGES, 485):

Submitted by COMMUNITY BY DESIGN for property located at N. WASHINGTON AVE. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, TWENTY-FOUR UNITS PER ACRE and contains approximately 0.12 acres. The request is for a variance to UDC §172.05 – Standards for the Number of Spaces by Use. - Ryan Umberger, Senior Planner

10. VAR-2023-0006: Planning Commission Variance (E. MOUNTAIN

ST/CANTABERY, 524):

Submitted by FREDRICK CANTABERY for property located at E. MOUNTAIN ST. The property is zoned DG, DOWNTOWN GENERAL and contains approximately 0.22 acres. The request is for a variance to the Streamside Protection Zone. - Alan Pugh, Staff Engineer

11. VAR-2023-0009: Planning Commission Variance (EAST OF W. CUSTER LN/STRICKLIN, 598):

Submitted by COMMUNITY BY DESIGN for property located on EAST OF W. CUSTER LN. The property is zoned RI-U, RESIDENTIAL INTERMEDIATE – URBAN and contains approximately 3.10 acres. The request is for a variance from parking lot surfacing standards and streamside protection zone requirements. - Gretchen Harrison, Planner

12. VAR-2023-0010: Planning Commission Variance (2120 N. COLLEGE AVE/SLIM CHICKENS, 485):

Submitted by HFA for property located on 2120 N. COLLEGE AVE. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 0.74 acres. The request is for a variance from parking lot entry width and driveway separation. - Donna Wonsower, Planner

13. CUP-2023-0021: Conditional Use Permit (3333 W. DINSMORE TRL/GARDEN DAY GETAWAY, 518):

Submitted by DALE NEWBERRY for property located at 3333 W. DINSMORE TRL. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 2.97 acres. The request is for Use Unit 4: Cultural and Recreational Facilities. - Gretchen Harrison, Planner

14. CUP-2023-0032: Conditional Use Permit (519 E. JOHNSON ST/MOHLER NWA HOMES,
441):

Submitted by TJ MOHLER for property located at 519 E. JOHNSON ST. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.19 acres. The request is for Use Unit 12a: Limited Business in RSF-4 zoning. - Gretchen Harrison, Planner

15. CUP-2023-0027: Conditional Use Permit (847 S. ROSE AVE/WERNER, 560):

Submitted by TODD & TERESA WERNER for property located at 847 S. ROSE AVE. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, TWENTY FOUR UNITS PER ACRES and contains approximately 0.20 acres. The request is to use the residence as a short-term rental. - Gretchen Harrison, Planner

16. CUP-2023-0028: Conditional Use Permit (1831 W. MITCHELL ST/GINGER,

520):

Submitted by NAN GINGER for property located at 1831 W. MITCHELL ST. The property is zoned RSF-8, RESIDENTIAL SINGLE-FAMILY, EIGHT UNITS PER ACRE and contains approximately 0.10 acres. The request is to use the residence as a short-term rental. - Gretchen Harrison, Planner

17. CUP-2023-0029: Conditional Use Permit (1835 W. MITCHELL ST/GINGER, 520):

Submitted by NAN GINGER for property located at 1835 W. MITCHELL ST. The property is zoned RSF-8, RESIDENTIAL SINGLE-FAMILY, EIGHT UNITS PER ACRE and contains approximately 0.10 acres. The request is to use the residence as a short-term rental. - Gretchen Harrison, Planner

18. CUP-2023-0030: Conditional Use Permit (2827 W. LAKEWOOD DR/CROSBY, 518):

Submitted by ENC HOLDINGS LLC for property located at 2827 W. LAKEWOOD DR. The property is zoned RPZD, RESIDENTIAL PLANNED ZONING DISTRICT and contains approximately 0.01 acres. The request is to use the residence as a short-term rental. - Donna Wonsower, Planner

19. CUP-2023-0031: Conditional Use Permit (1123 S. TOTTENHAM CT/THE DVB GROUP LLC, 557):

Submitted by DOMINIQUE BLAKE for property located at 1123 S. TOTTENHAM CT. The property is zoned RPZD, RESIDENTIAL PLANNED ZONING DISTRICT and contains approximately 0.01 acres. The request is to use the residence as a short-term rental. - Donna Wonsower, Planner

20. CUP-2023-0033: Conditional Use Permit (614 W. LAFAYETTE ST/TONYMON, 483):

Submitted by BROKEN ROAD VENTURES LLC for property located at 614 W. LAFAYETTE ST. The property is zoned RMF-40, RESIDENTIAL MULTI-FAMILY, FORTY UNITS PER ACRE and contains approximately 0.10 acres. The request is to use the residence as a short-term rental. - Donna Wonsower, Planner

21. CUP-2023-0004: Conditional Use Permit (462 E. MIMOSA LN/TILLMAN, 251):

Submitted by WALTER TILLMAN for property located at 462 E. MIMOSA LN. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY – 24 UNITS PER ACRE and contains approximately 0.14 acres. The request is to use the residence as a short-term rental. - Ryan Umberger, Senior Planner

22. CUP-2023-0035: Conditional Use Permit (2110 W. LOREN CIR./HILL, 442):

Submitted by
WEEKENDER MANAGEMENT for property located at 2100 W. LOREN CIR. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.30 acres. The request is to use the residence as a short-term rental. - Ryan Umberger, Senior Planner

23. CUP-2023-0036: Conditional Use Permit (724 E. LAFAYETTE ST/RAPKE, 486):

Submitted
by HIMALAYAN MOUNTAIN SHOP for property located at 724 E. LAFAYETTE ST. The property is zoned RMF-6, RESIDENTIAL MULTI-FAMILY, SIX UNITS PER ACRE and contains approximately 0.30 acres. The request is to use the residence as a short-term rental. - Ryan Umberger, Senior Planner

Items Administratively Approved by Staff

Agenda Session Items

Announcements

24. **The Planning Commission Officer Voting.**

- Sarah Sparkman, Chair
- Andrew Brink, Vice-Chair
- Mary McGetrick, Secretary

Adjournment

NOTICE TO MEMBERS OF THE AUDIENCE

All interested parties may appear and be heard at the public hearings. If you wish to address the Planning Commission on an agenda item, please queue behind the podium when the Chair asks for public comment. Once the Chair recognizes you, go to the podium and give your name and address. Address you comments to the Chair, who is the presiding officer. The Chair will direct your comments to the appropriate appointed official, staff, or others for response. Please keep your comments brief, to the point, and relevant to the agenda item being considered so that everyone has a chance to speak.

Interpreters of TDD, Telecommunications Device for the Deaf, are available for all public hearings, 72 hour notice is required. For further information or to request an interpreter, please call 575-8330.

As a courtesy please turn off all cell phones and pagers.

(pg. 1) Planning Commission			3/13/2023			
Time:	**5:30pm**					
Staff :	☒ Melissa Evans ☐ John Scott ☒ Jessie Masters ☒ Ryan Umberger ☒ Gretchen Harrison ☒ Donna Wonsower					
	☐ Britin Bostick ☐ Sherry Smith ☒ Josh Boccaccio ☒ Melissa Boyd ☒ Fire Marshall					
	Roll Call	**(1) Minutes 02-27-2023**	**2) ADM-2023-0005 (HUGHMOUNT NORTH PH 2)**	**3) VAR-2023-0006 (CANTABERY)**	**4) LSD-2022-0041 (112 ARONSON)**	**5) LSD-2023-0001 (JRG HOLDINGDS LLC)**
Brink	1	1	1		1	1
McGetrick	1	1	1		1	1
Winston	1	1	1		1	1
Canada					1	1
Sparkman	1	1	1		1	1
Johnson	1	1	1		1	1
Garlock	1	1	1		1	1
Madden	1	1	1		1	1
Holcomb	1	1	1		1	1
Agenda		**Consent**	**Consent**	**WITHDRAWN**	**New**	**New**
Motion By		Garlock	Garlock		Garlock	Garlock
Motion 2nd		Madden	Madden		Johnson	Holcomb
Vote		8-0-0	8-0-0		9-0-0	9-0-0
Action		Approve	Approve		Table	Table
Time		5:33pm	5:33pm		6:08pm	6:15pm
Motion Detail					Tabled till March 27th PC Meeting No Public Comment	Tabled till March 27th PC Meeting No Public Comment

(pg. 2) Planning Commission	Monday, 3/13/2023				
	6) CUP-2023-0021 (GARDEN DAY GETAWAY)	7) CUP-2023-0023 (GARDEN DISTRICT TOWNEHOMES)	8) RZN-2023-0005 (COLLINS)	9) RZN-2023-0006 (MAHONEY)	10) CUP-2023-0016 (PELTIER)
Brink	[redacted]	1	1	1	1
McGetrick		1	1	1	1
Winston		1	1	1	0
Canada		1	1	1	1
Sparkman		1	1	1	1
Johnson		1	1	1	1
Garlock		1	1	1	Recuse
Madden		1	1	1	1
Holcomb		1	1	1	1
Agenda	WITHDRAWN	New	New	New	New
Motion By		Brink	Holcomb	Winston	Brink
Motion 2nd		Garlock	Brink	Canada	Johnson
Vote		9-0-0	9-0-0	9-0-0	7-1-1
Action		Table	Forward	Forward	Approve
Time		6:17pm	6:32pm	6:39pm	7:14pm
Motion Detail		Tabled till March 27th PC Meeting. No Public Comment	With a recommendation of approval. No Public Comment	With a recommendation of approval. No Public Comment	Approved with all conditions as recommended by staff. Except limiting occupancy to a maximum of 8 guests. 5 Public Comment

	11) CUP-2023-0017 (SOBBA)	12) CUP-2023-0019 (MOCKINGBIRD HOLDINGS LLC)	13) CUP-2023-0018 (SCHMIDT)	14) CUP-2023-0020 (HOMETOWN PROPTERIES LTD)	15) CUP-2023-0022 (GINGER)
Brink	1	1	1	1	1
McGetrick	1	1	1	1	1
Winston	1	1	1	1	1
Canada	1	1	1	1	1
Sparkman	1	1	1	1	1
Johnson	1	1	1	1	1
Garlock	1	1	1	1	1
Madden	1	1	1	1	1
Holcomb	1	1	1	1	1
Agenda	**New**	**New**	**New**	**New**	**New**
Motion By	Garlock	Johnson	Johnson	Brink	Garlock
Motion 2nd	Holcomb	Holcomb	Winston	Garlock	Brink
Vote	9-0-0	9-0-0	9-0-0	9-0-0	9-0-0
Action	Approve	Approve	Deny	Approve	Approve
Time	7:18pm	7:26pm	7:58pm	8:02pm	8:06pm
Motion Detail	Approved with all conditions as recommended. No Public Comment	Approved with all conditions as recommened. No Public Comment	Denied. 5 Public Comment	Approved with all conditions as recommended. No Public Comment	Approved with all conditions as recommended. No Public Comment

(pg. 4) Planning Commission			Monday, 3/13/2023		
	16) CUP-2023-0024 (BARNES)	17) CUP-2023-0025 (SISEMORE)	18) CUP-2023-0026 (WILLIAMS)		
Brink	1	1	1		
McGetrick	1	1	1		
Winston	1	1	1		
Canada	1	1	1		
Sparkman	1	1	1		
Johnson	1	1	1		
Garlock	1	1	1		
Madden	1	1	1		
Holcomb	1	1	1		
Agenda	**New**	**New**	**New**		
Motion By	Brink	Holcomb	Garlock		
Motion 2nd	Madden	Madden	Holcomb		
Vote	9-0-0	9-0-0	9-0-0		
Action	Approve	Approve	Approve		
Time	8:14pm	8:28pm	8:34pm		
Motion Detail	Approved with all conditions as recommended. No Public Comment	Approved with all conditions as recommended. No Public Comment	Approved with all conditions as recommended. No Public Comment		

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Planner

MEETING DATE: March 27, 2023

SUBJECT: **VAR-2023-0007: Variance (4136 N. HUNGATE LN./SOWELL, 141):** Submitted by BLEW & ASSOCIATES for property located at 4136 N. HUNGATE LN. The property is in the FAYETTEVILLE PLANNING AREA and contains approximately 2.78 acres. The request is for a variance from minimum lot width requirements.

RECOMMENDATION:
Staff recommends approval of **VAR-2023-0007** with conditions based on the findings herein.

RECOMMENDED MOTION:
*"I move to approve **VAR-2023-0007**, determining:*

- *In favor of the requested variance, and*
- *In favor of all other conditions as recommended by staff."*

BACKGROUND:
The subject property is located approximately one-tenth of a mile northeast of the intersection of Gulley Road and Hungate Lane outside of Fayetteville city limits in unincorporated Washington County. The property is in the Fayetteville Planning Area and contains one parcel totaling 2.78 acres. A request to split the property into two lots was submitted in July of 2022 and is still under review by city staff (LSP-2022-0041). A Planning Commission variance was approved in September of 2022 to allow the property to be split into two lots with insufficient street frontage (VAR-2022-0052). In February of 2023, the applicant informed staff that the boundaries of the parent tract shown on the lot split survey were incorrect, noting that approximately 0.92 acres were excluded which the property owner intends to split into a third lot. Since the additional acreage and lot were not factored into the variance that was previously approved by the Planning Commission, a new variance is needed in order to split the property as proposed. Surrounding land use and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Rural Residential	Washington County - Ag/SF 1 (Agricultural/Single-Family Residential, One Unit per Acre)
South	Rural Residential	Washington County - Ag/SF 1 (Agricultural/Single-Family Residential, One Unit per Acre)
East	Rural Residential	Washington County - Ag/SF 1 (Agricultural/Single-Family Residential, One Unit per Acre)
West	Rural Residential	Washington County - Ag/SF 1 (Agricultural/Single-Family Residential, One Unit per Acre)

Request: The applicant proposes to split the subject property into a total of three lots containing approximately 0.88, 0.98, and 0.92 acres with no frontage on a public street. Since all lots in the Fayetteville Planning Area are required to have at least 75 feet of direct frontage onto a public street, the proposed lot split necessitates a variance to UDC §166.05(A)(3). A variance to allow for the creation of the 0.88 and 0.98 acre lots was previously approved by the Planning Commission in September of 2022. This request is specifically to allow for the creation of the third 0.92 acre lot.

Public Comment: To date, staff has received no public comment on this item.

DISCUSSION:
The subject property contains one parcel that is surrounded by rural residential properties varying in both size and arrangement. Where the proposed lot split would allow for the creation of three lots with 0.88, 0.98, and 0.92 acres, surrounding properties vary in size between 0.80 and 6.30 acres, with several lots nearby no having direct frontage on a public street. Staff finds that the proposed lot split would result in three lots without direct street frontage that are comparable to neighboring properties and reflective of a low-density development pattern that is consistent with the surrounding area. Staff is thus supportive of the requested variance. Since existing access easements are in place which allow ingress and egress to all proposed lots, staff does not recommend that any additional access easements be dedicated as part of the proposed lot split. Since the lot split will result in three lots with insufficient lot area, a conditional use permit from Washington County will be required prior to City lot split approval.

RECOMMENDATION: Staff recommends approval of VAR-2023-0007 with the following conditions:

Conditions of Approval:

1. Planning Commission determination of a variance to UDC 166.05(A)(3), requiring all lots in the Fayetteville Planning Area to have direct street frontage pursuant to residential lot and block standards set by Washington County. *Staff is supportive of this request based on the findings herein;*

2. Approval of this variance does not constitute approval of the associated lot split application. Review and approval of the lot split shall be required in accordance with City code; and

3. The applicant shall receive approval from Washington County prior to recordation.

Planning Commission Action:	**❒ Approved**	**❒ Tabled**	**❒ Denied**
Meeting Date: March 27, 2023			
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:
None

ATTACHMENTS:

- UDC §166.05 - Required Infrastructure Improvements and Subdivision Regulations - Development In Planning Area
- Applicant Request Letter
- Applicant Exhibit
- One Mile Map
- Close-Up Map
- Current Land Use Map

166.05 - Required Infrastructure Improvements and Subdivision Regulations - Development In Planning Area

(A) *Required Infrastructure Improvements and Subdivision Regulations Outside the City.*

(1) *Within 1 Mile of City Limits*. On and off-site improvements and subdivision regulations for development outside the city limits and within one mile of the city are the same as for those developments within the city limits, with the exception of park land dedication requirement which is not required.

(2) *Beyond 1 Mile of City Limits.* On- and off-site improvements and subdivision regulations for development outside 1 mile of the city limits shall meet Washington County standards.

(3) All lots in the planning area shall have direct frontage to a public street, with the minimum frontage required by Washington County pursuant to residential lot and block standards.

(B) *Developments Outside City Developed to All Inside the City Standards.* If the City Council grants access to the City's sewer system pursuant to §51.115. (C) and the owner/developer agrees to petition for annexation as soon as legally possible and develop the subdivision in accordance with all city development requirements including payment of all impact fees, the bulk and area requirements for this subdivision shall conform to those within the RSF-4 Zoning District or as otherwise designated by the City Council rather than those within the planning area.

(Code 1965, App. A., Art. 8(11), App. C., Art. IV; Ord. No. 1747, 6-29-70; 1750, 7-6-70; Ord. No. 1999, 5-7-74; Code 1991, §§159.54, 160.120; Ord. No. 3925, §6, 10-3-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4753, 9-6-05; Ord. No. 5215, 1-20-09; Ord. No. 5270, 9-1-09; Ord. No. 5296, 12-15-09; Ord. No. 5546, 12-04-12)

Blew & Associates, P.A.
Civil Engineers Professional Land Surveyors

3825 N. Shiloh Dr.
Fayetteville, Arkansas 72703
479-443-4506
Fax 582-1883

February 22, 2023

To Whom It May Concern,

Variance
My client, Donna Sowell is requesting a Variance for the property at 4100 N Hungate Ln in Fayetteville. This is a requirement from the City of Fayetteville for no road frontage. The property already exists without any public road frontage. Therefor there is no way to remedy this. There are two access easements at the North and South of the property for each Tract. This will not affect the adjacent properties in any way. We kindly ask for your approval of this Variance. The Variance affects parcel: 001-15250-002. Code section UDC Sec. 166.05(A)(3)
Sincerely,

Sydnee Shockley
Blew & Associates, P.A.

FAMILY SPLIT

4100 HUNGATE ROAD
WASHINGTON COUNTY
FAYETTEVILLE, ARKANSAS 72703

SURVEY DESCRIPTION

PARENT TRACT (PARCEL 001-15250-000)
A PART OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 20, TOWNSHIP 17 NORTH, RANGE 29 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A FOUND 5/8" REBAR MARKING THE NORTHWEST CORNER OF ADJUSTED TRACT B, AS SHOWN IN PLAT FILE 2006-19251, WASHINGTON COUNTY, ARKANSAS; THENCE S87°54'08"E TO A FOUND 5/8" REBAR; THENCE S02°08'10"W 189.01' TO A SET 5/8" REBAR; THENCE S02°08'10"W 210.75' TO A FOUND 5/8" REBAR; THENCE N87°49'59"W 202.85' TO A FOUND 5/8" REBAR; THENCE N02°06'57"E 210.51' TO A SET 5/8" REBAR; THENCE N02°06'57"E 189.00' TO THE POINT OF BEGINNING, CONTAINING 1.862 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHT-OF-WAYS OF RECORD.

TRACT 1
A PART OF THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION TWENTY (20), TOWNSHIP SEVENTEEN (17) NORTH, RANGE TWENTY-NINE (29) WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:
BEGINNING AT THE NORTHWEST CORNER OF TRACT B AS SHOWN ON INSTRUMENT NO. 2006-00019251 AT A FOUND 5/8" REBAR; THENCE, SOUTH 87°54'08" EAST A DISTANCE OF 202.99 FEET TO A FOUND 5/8" REBAR CAPPED "1532"; THENCE, SOUTH 02°08'10" WEST A DISTANCE OF 189.01 FEET TO A SET 5/8" REBAR CAPPED "PLS 1659"; THENCE, NORTH 87°53'56" WEST A DISTANCE OF 202.92 FEET TO A SET 5/8" REBAR CAPPED "PLS 1659"; THENCE, NORTH 02°06'57" EAST A DISTANCE OF 189.00 FEET TO THE POINT OF BEGINNING. CONTAINING 0.881 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHT-OF-WAYS OF RECORD.

TRACT 2
A PART OF THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION TWENTY (20), TOWNSHIP SEVENTEEN (17) NORTH, RANGE TWENTY-NINE (29) WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:
COMMENCING AT THE NORTHWEST CORNER OF TRACT B AS SHOWN ON INSTRUMENT NO. 2006-00019251 AT A FOUND 5/8" REBAR; THENCE, SOUTH 02°06'57" WEST A DISTANCE OF 189.00 FEET TO A SET 5/8" REBAR CAPPED "PLS 1659" BEING THE TRUE POINT OF BEGINNING; THENCE, SOUTH 87°53'56" EAST A DISTANCE OF 202.92 FEET TO A SET 5/8" REBAR CAPPED "PLS 1659"; THENCE, SOUTH 02°08'10" WEST A DISTANCE OF 210.75 FEET TO A FOUND 5/8" REBAR CAPPED "1532"; THENCE, NORTH 87°49'59" WEST A DISTANCE OF 202.85 FEET TO A FOUND 5/8" REBAR; THENCE, NORTH 02°06'57" EAST A DISTANCE OF 210.51 FEET TO THE POINT OF BEGINNING. CONTAINING 0.981 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHT-OF-WAYS OF RECORD.

TRACT 3
A PART OF THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION TWENTY (20), TOWNSHIP SEVENTEEN (17) NORTH, RANGE TWENTY-NINE (29) WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:
COMMENCING AT THE NORTHWEST CORNER OF TRACT B AS SHOWN ON INSTRUMENT NO. 2006-00019251 AT A FOUND 5/8" REBAR; THENCE, SOUTH 87°54'08" EAST 202.99 FEET TO A FOUND 5/8" REBAR CAPPED "1532" BEING THE TRUE POINT OF BEGINNING; THENCE, CONTINUING SOUTH 87°54'08" EAST 100.00 FEET TO A SET 5/8" REBAR CAPPED "PLS 1659"; THENCE, SOUTH 02°08'10" WEST 399.88 FEET TO A SET 5/8" REBAR CAPPED "PLS 1659"; THENCE, NORTH 87°49'59" WEST 100.00 FEET TO A FOUND 5/8" REBAR CAPPED "1532"; THENCE, NORTH 02°08'10" EAST 399.76 FEET TO THE POINT OF BEGINNING. CONTAINING 0.918 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHT-OF-WAYS OF RECORD.

MISCELLANEOUS NOTES

STATE RECORDING NUMBER:
500-17N-29W-0-20-230-72-1659

COMPLETED FIELD WORK:
JUNE 29, 2022

BASIS OF BEARING
THE BASIS OF BEARING OF THIS SURVEY IS GRID NORTH, BASED ON ARKANSAS STATE PLANE COORDINATE SYSTEM, NORTH ZONE NAD83.

REFERENCE DOCUMENTS:
1. WARRANTY DEED FILED IN 2002111303.
2. SURVEY PLAT FILED IN 2006-00019251.

SOME FEATURES SHOWN ON THIS PLAT MAY BE SHOWN OUT OF SCALE FOR CLARITY.

DIMENSIONS ON THIS PLAT ARE EXPRESSED IN FEET AND DECIMAL PARTS THEREOF UNLESS OTHERWISE NOTED. MONUMENTS WERE FOUND AT POINTS WHERE INDICATED.

EXCEPT AS SPECIFICALLY STATED OR SHOWN ON THIS PLAT, THIS SURVEY DOES NOT PURPORT TO REFLECT OF ANY OF THE FOLLOWING WHICH MAY BE APPLICABLE TO THE SUBJECT PROPERTY: EASEMENTS, OTHER THAN POSSIBLE EASEMENTS WHICH WERE VISIBLE AT THE TIME OF SURVEY; RESTRICTIVE COVENANTS; SUBDIVISION RESTRICTIONS OR OTHER LAND USE REGULATIONS; AND ANY OTHER FACTS WHICH AN ACCURATE TITLE SEARCH MAY DISCLOSE.

THERE IS NO EVIDENCE OF ANY DELINEATED WETLAND AREAS, PER THE U.S. FISH & WILDLIFE SERVICE NATIONAL WETLANDS INVENTORY WEBSITE. NO MARKERS FROM A FIELD DELINEATION OF WETLANDS CONDUCTED BY A QUALIFIED SPECIALIST WERE OBSERVED DURING THE COURSE OF THE ALTA SURVEY.

A VARIANCE WAS GRANTED BY THE CITY OF FAYETTEVILLE PLANNING COMMISSION TO ALLOW FOR THE CREATION OF ONE LOT IN THE COUNTY WITH INSUFFICIENT FRONTAGE (VAR-2022-0052).

FLOOD ZONE INFORMATION

BY GRAPHIC PLOTTING ONLY, NO PORTION OF THIS PROPERTY IS IN ZONE "A" OR "AE" OF THE FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 05143C0230F & 05143C0090F, WHICH BEARS AN EFFECTIVE DATE OF 05/16/2008 AND IS NOT IN A SPECIAL FLOOD HAZARD AREA.

UTILITY INFORMATION

THE LOCATION OF UTILITIES SHOWN HEREON ARE FROM OBSERVED EVIDENCE OF ABOVE GROUND APPURTENANCES ONLY. THE SURVEYOR WAS NOT PROVIDED WITH UNDERGROUND PLANS OR SURFACE GROUND MARKINGS TO DETERMINE THE LOCATION OF ANY SUBTERRANEAN USES.

ZONING INFORMATION

CURRENT ZONING: AG/SF RES 1 UNIT PER ACRE

SETBACK REQUIREMENTS:
FRONT - 25' SETBACK & UTILITY EASEMENT
SIDE - 10'
REAR - 20'

PROPOSED USE: SINGLE FAMILY RESIDENTIAL

PLAT PAGE NUMBER: 141

N
W E
S
1" = 50'
GRAPHIC SCALE
0 25' 50' 100'

LAND AREA

121,074 ± SQUARE FEET
2.779 ± ACRES

OWNER/DEVELOPER

JASON WAYNE TERRY
4100 N HUNGATE LN (WC 4030)
FAYETTEVILLE, AR 72703
APN :001-15250-000

CERTIFICATE OF SURVEY AND ACCURACY:
I HEREBY CERTIFY THAT THE PLAT SHOWN AND DESCRIBED HEREON IS A TRUE AND CORRECT SURVEY AND THAT THE MONUMENTS HAVE BEEN PLACED AS SHOWN HEREON AS REQUIRED BY "REGULATIONS, STANDARDS AND SPECIFICATIONS FOR THE DIVISION, DEVELOPMENT AND IMPROVEMENT OF UNINCORPORATED LAND IN WASHINGTON COUNTY. DATE: JUNE 30, 2022

WILLIAM G. GAGNER PLS #1659
PROFESSIONAL LAND SURVEYOR

CERTIFICATE OF OWNERSHIP & DEDICATION:
WE, THE UNDERSIGNED OWNERS, REPRESENTING ONE HUNDRED PERCENT (100%) OWNERSHIP OF THE REAL ESTATE SHOWN AND DESCRIBED HEREIN, DO HEREBY DEDICATE FOR PUBLIC OWNERSHIP, ALL STREETS AND ALLEYS AS SHOWN ON THIS PLAT FOR PUBLIC BENEFIT AS PRESCRIBED BY LAW. THE OWNERS ALSO DEDICATE TO WASHINGTON COUNTY AND TO THE PUBLIC UTILITY COMPANIES (INCLUDING ANY CABLE TELEVISION COMPANY HOLDING A FRANCHISE GRANTED BY WASHINGTON COUNTY) THE EASEMENTS AS SHOWN ON THIS PLAT FOR THE PURPOSE OF INSTALLATION OF NEW FACILITIES AND THE REPAIR OF EXISTING FACILITIES. ALSO ESTABLISHED HEREBY IS THE RIGHT OF INGRESS AND EGRESS TO SAID EASEMENTS, THE RIGHT TO PROHIBIT THE ERECTION OF BUILDINGS, STRUCTURES, OR FENCES WITHIN SAID EASEMENTS, AND THE RIGHT TO REMOVE OR TRIM TREES WITHIN SAID EASEMENTS.

DATE OWNER

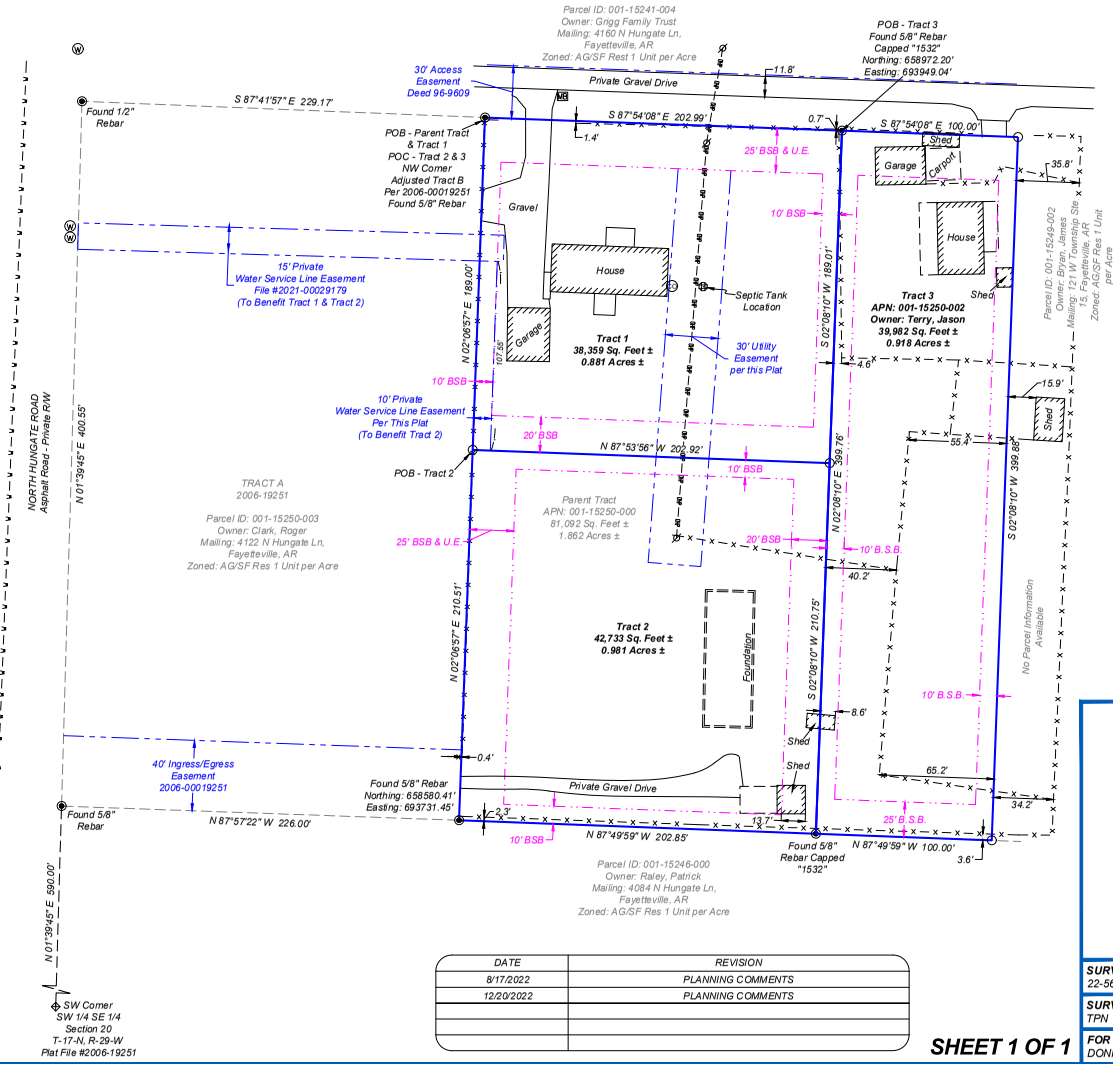
DATE OWNER

VICINITY MAP

NOT TO SCALE

LEGEND & SYMBOLS

- FOUND MONUMENT (AS NOTED)
- SET 5/8" REBAR CAPPED "AR PLS 1659"
- COMPUTED POINT
- POWER POLE
- CLEAN OUT
- GAS METER
- WATER METER
- MAILBOX
- POC — POINT OF COMMENCEMENT
- POB — POINT OF BEGINNING
- U.E. — UTILITY EASEMENT
- BOUNDARY LINE
- EASEMENT LINE
- RIGHT-OF-WAY LINE (R/W)
- CENTERLINE (C/L)
- FENCE LINE
- OVERHEAD POWER LINE
- SETBACK LINE (BSB)
- WATER LINE



DATE	REVISION
8/17/2022	PLANNING COMMENTS
12/20/2022	PLANNING COMMENTS

SHEET 1 OF 1

I HEREBY CERTIFY THIS TO BE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF ON THIS THE 16TH DAY OF FEBRUARY, 2023.

CERTIFICATE OF AUTHORIZATION
BLEW & ASSOCIATES, PA
No. 1534
ARKANSAS

REGISTERED
STATE OF ARKANSAS
NO. 1659
SIGNATURE
W. GAGNER
PROFESSIONAL LAND SURVEYOR

IF THE SIGNATURE ON THIS SEAL IS NOT AN ORIGINAL AND NOT BLUE IN COLOR THEN IT SHOULD BE ASSUMED THAT THIS PLAT MAY HAVE BEEN ALTERED. THE ABOVE CERTIFICATION SHALL NOT APPLY TO ANY COPY THAT DOES NOT BEAR AN ORIGINAL SEAL AND SIGNATURE.

BLEW & ASSOCIATES, P.A.
Surveying
Engineering
Mapping
3825 N. SHILOH DRIVE - FAYETTEVILLE, AR 72703
EMAIL:SURVEY@BLEWINC.COM
OFFICE: 479.443.4506 ·FAX: 479.582.1883
EMAIL: SURVEY@BLEWINC.COM·WWW.BLEWINC.COM

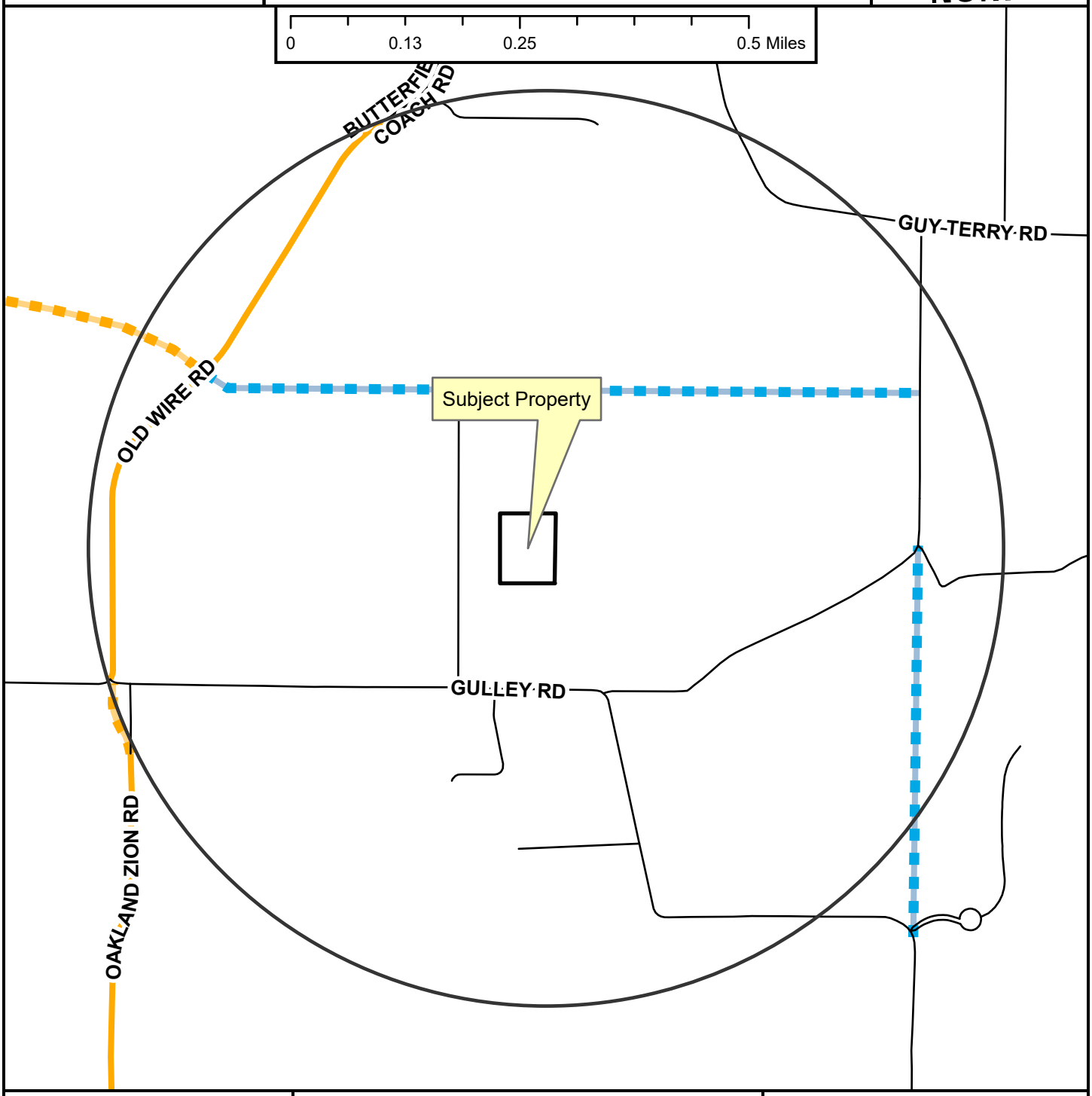
SURVEYOR JOB NUMBER: 22-5686	**SURVEY DRAWN BY:** ANS - 07/01/2022
SURVEY REVIEWED BY: TPN	**SCALE:** 1" = 50'
FOR THE USE AND BENEFIT OF: DONNA SOWELL	

VAR-2023-0007

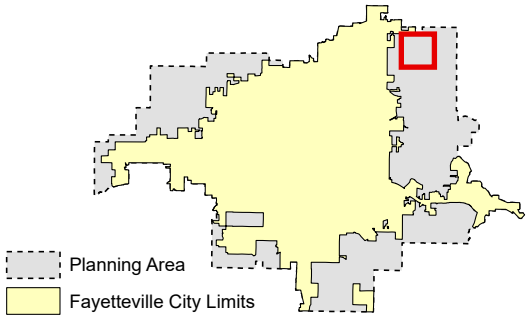
One Mile View

4136 N. HUNGATE LN

NORTH



- Neighborhood Link
- Unclassified
- Residential Link
- Planned Neighborhood Link
- Planned Residential Link
- Planning Area



Zoning

RESIDENTIAL SINGLE-FAMILY
NS-G
RI-U
RI-12
NS-L
Residential-Agricultural
RSF-.5
RSF-1
RSF-2
RSF-4
RSF-7
RSF-8
RSF-18

RESIDENTIAL MULTI-FAMILY
RMF-6
RMF-12
RMF-18
RMF-24
RMF-40

INDUSTRIAL
I-1 Heavy Commercial and Light Industrial
I-2 General Industrial

EXTRACTION
E-1

COMMERCIAL
Residential-Office
C-1
C-2
C-3

FORM BASED DISTRICTS
Downtown Core
Urban Thoroughfare
Main Street Center
Downtown General
Community Services
Neighborhood Services
Neighborhood Conservation

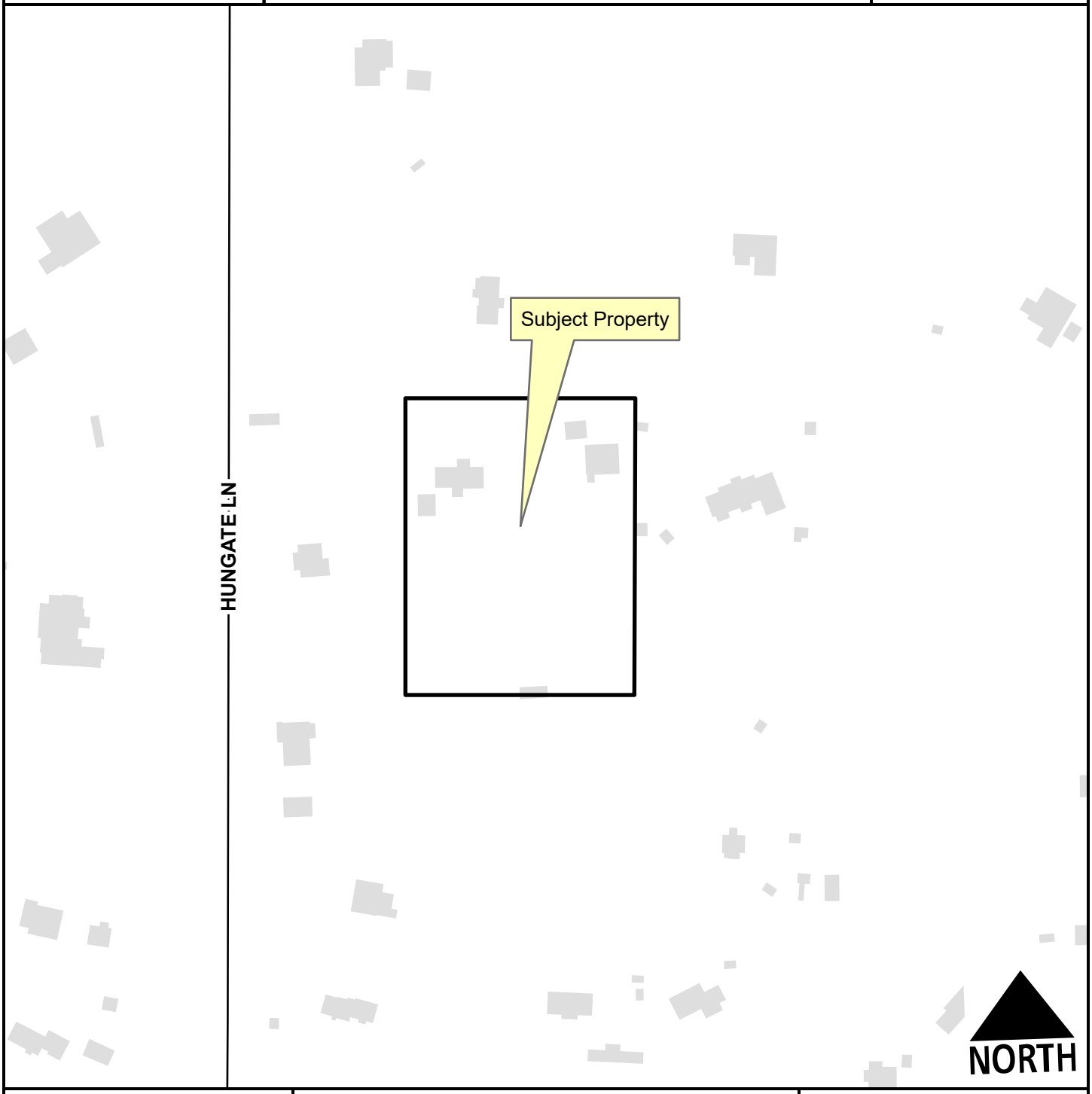
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

VAR-2023-0007

Close Up View

4136 N. HUNGATE LN



Unclassified

Planning Area

Feet

0 75 150 300 450 600

1:2,400

VAR-2023-0007

Current Land Use

4136 N. HUNGATE LN

NORTH

Unclassified

Planned Residential Link

Planning Area

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

100-Year Floodplain

Floodway

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner

MEETING DATE: March 27, 2023

SUBJECT: **VAR-2023-0008: Planning Commission Variance (W. OF ELKHORN SPRINGS AND HWY 16, 430):** Submitted by BLEW & ASSOCIATES for property located W. ELKHORN SPRINGS AND HWY 16. The property is in the FAYETTEVILLE PLANNING AREA and contains approx. 12.44 acres. The request is for a variance to UDC §166.08(E) – Block Layout/Connectivity.

RECOMMENDATION:
Staff recommends approval of **VAR-2023-0008** with conditions based on the findings contained in this report.

RECOMMENDED MOTION:
*"I move to approve **VAR-2023-0008** with conditions, determining:*

- *In favor of the requested variance; and*
- *All other conditions as recommended by staff."*

BACKGROUND:
The subject property is located in the Planning Area, roughly 1/3 mile west of city limits on the south side of W. Wedington Dr./Arkansas Highway 16. The site contains approximately 12.44 acres and is developed with a single-family residence, detached garage, and pool house. The site is surrounded by rural, residential properties on all sides. Because this property is located within one mile of the city limits, it is also subject to development in accordance with the city's on and off-site improvement and subdivision regulations. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Rural Residential	Washington County - Ag/SF 1 (Agricultural/Single-family Residential, One Unit per Acre)
South	Rural Residential	Washington County - Ag/SF 1 (Agricultural/Single-family Residential, One Unit per Acre)
East	Rural Residential	Washington County - Ag/SF 1 (Agricultural/Single-family Residential, One Unit per Acre)
West	Rural Residential	Washington County - Ag/SF 1 (Agricultural/Single-family Residential, One Unit per Acre)

Request: The applicant proposes to split the subject property into two lots. The proposed lot split would result in a double-street frontage through lot. With the exception of corner lots, double-

street frontage lots are prohibited unless otherwise permitted by the Planning Commission. Consequently, the proposed lot split necessitates a variance to UDC §166.08(E).

Public Comment: Staff has not received any public comment regarding this request.

DISCUSSION:
Staff is supportive of the requested variance. As proposed, Tract 1 will have roughly 221-feet of frontage onto Arkansas Highway 16 and 250-feet of frontage onto Elkhorn Springs Road. Proposed Tract 2 is a corner lot which, by being split off, is creating the double-street frontage condition. Double frontage lots may be permitted by the Planning Commission in instances where there are topographical problems, feasibility issues relating to the parcel's dimensions, or other good cause established by the developer. Further, the purpose of enforcing subdivision regulations in the Planning Area is to incrementally assimilate large lots of a variety of shapes and sizes without any identifiable pattern into an orderly form. Staff finds there are no topographical problems or feasibility issues with the subject request.

Conversely though, the intent of the ordinance is to improve streetscapes and the pedestrian realm by having structures address the street. Because the lot split is intended to occur on a rural residential property the requested variance is not representative of the type of through lot the ordinance is meant to discourage. There are no existing, planned, or conceptual non-vehicular amenities proposed along the site. Also, one street frontage is onto a state highway where the existing residence already fronts onto Elkhorn Springs Road. Given the orientation of the existing structure and the presence of the state highway staff finds the spirit and intent of the Planning Area and Block/Layout Connectivity ordinance will be unaffected by approval of the variance.

RECOMMENDATION: Staff recommends approval of VAR-2023-0008 with the following conditions:

Conditions of Approval:

1. Planning Commission determination of a variance of UDC 166.08(E), which prohibits double-street frontage lots. *Staff is supportive of this request based on the findings herein;*

2. Approval of this variance does not constitute approval of the associated lot split application. Review and approval of the lot split shall be required in accordance with City code; and

3. The applicant shall receive approval from Washington County prior to recordation.

Planning Commission Action:	**❒ Approved**	**❒ Tabled**	**❒ Denied**
Meeting Date: March 27, 2023			
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:
None

ATTACHMENTS:
- UDC §166.08 – Street Design and Access Management Standards
- Applicant Request Letter
- Applicant Exhibit
- One Mile Map
- Close-Up Map
- Current Land Use Map

166.08 Street Design And Access Management Standards

…

(E) *Block Layout/Connectivity.*

(1) *Block Length.* Block lengths and street intersections are directly tied to the functional hierarchy of the street pattern that exists or is proposed.

(a) *Regional and Regional High Activity Links.* Signalized intersections should be located at a minimum of one (1) every 2,640 feet (half a mile) along regional links and should be based on traffic warrants.

(b) *Neighborhood Links.* Intersections should be located at a minimum of one (1) every 1,320 feet (quarter of a mile) along neighborhood links.

(c) *Residential Link and Downtown/Urban Street.* Intersections shall occur at a minimum of one (1) every 660 feet.

(d) *Variances.* Block length standards may be varied by the Planning Commission when terrain, topographical features, existing barriers or streets, size or shape of the lot, or other unusual conditions justify a departure.

(2) With the exception of corner lots, double-street frontage lots are prohibited except where such lots front on access restricted roadways such as expressways. Alleys are not considered as frontage. Double frontage lots may be permitted by the Planning Commission for topographical problems, feasibility issues relating to the parcel's dimensions, or other good cause which must be established and proven by the developer. The Planning Commission may impose additional landscape requirements along the back of such double-frontage lots. Unless otherwise approved by the Planning Commission, all primary structures shall be oriented toward the higher functional classification street.

(3) *Connectivity.* Wherever a proposed development abuts undeveloped land, street stub-outs shall be provided as deemed necessary by the Planning Commission to abutting properties or to logically extend the street system.

(4) *Topography.* Local streets should be designed to relate to the existing topography and minimize the disturbance zone.

(5) *Dead-End Streets.* Dead end streets are discouraged and should only be used in situations where they are needed for design and development efficiency, reduction of necessary street paving, or where proximity to floodplains, creeks, difficult topography or existing barriers warrant their use. All dead end streets shall end in a cul-de-sac with a radius of 50 feet, or an alternative design approved by the city and the Fire Department. The maximum length of a dead end street (without a street stub-out) shall be 500 feet.

…

(Code 1965, App. C., Art. IV, §§C, D, F—H; Ord. No. 1750, 7-6-70; Ord. No. 1801, 6-21-71; Ord. No. 2196, 2-17-76; Ord. No. 2353, 7-5-77; Code 1991, §§159.45, 159.58, 159.51—159.53; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4757, 9-6-05; Ord. No. 4919, 9-05-06; Ord. No. 5156, 8-5-08; Ord. No. 5296, 12-15-09; Ord. No. 5546, 12-04-12; Ord. No. 5642, 12-03-13; Ord. No. 6179 , §1, 4-16-19; Ord. No. 6207 , §§1—4, 7-16-19; Ord. No. 6244 , §1, 10-1-19; Ord. No. 6350 , §4(Exh. C), 8-18-20)

Blew & Associates, P.A.
Civil Engineers Professional Land Surveyors

3825 N. Shiloh Dr.
Fayetteville, Arkansas 72703
479-443-4506
Fax 582-1883

February 22nd, 2023

To Whom It May Concern,

Variance
My client, Daniel Ingram is requesting for a variance at 15005 Elkhorn Springs Road, Fayetteville. We are having to request this variance due creating a double frontage lot. The property already exists as a double frontage lot and there would be no alternative when splitting the property. This would not affect the adjacent property owners in any way. There would not be an increase with traffic in the area as well. We kindly ask for your approval on this Variance. The variance affects parcel: 001-11552-000. Code UDC 166.05(A)(1) AND 166.08(E)(2)

Sincerely,

Sydnee Shockley
Blew & Associates, P.A.

TRACT SPLIT

15005 ELKHORN SPRINGS ROAD
WASHINGTON COUNTY
FAYETTEVILLE, AR 72704

LINE	BEARING	DISTANCE
L1	N 34°33'57" W	80.53'

1" = 100'
GRAPHIC SCALE
0 50' 100' 200'

LAND AREA

541,813 ± SQUARE FEET
12.438 ± ACRES

RECORD DESCRIPTION

PARENT TRACT (TRACT 2: PLAT FILE 2020-44142)
A PART OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 8, TOWNSHIP-16-N, RANGE-31-WEST IN WASHINGTON COUNTY, ARKANSAS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO -WIT:
COMMENCING FROM THE SOUTHWEST CORNER OF SAID FORTY-ACRE TRACT, THENCE ALONG THE SOUTH LINE OF SAID FORTY-ACRE TRACT S88°09'17"E PASSING THROUGH A FOUND 5/8" REBAR AT A DISTANCE OF 130.24' FOR A TOTAL DISTANCE OF 214.79' TO A SET 1/2" REBAR BEING THE TRUE POINT OF BEGINNING; THENCE LEAVING THE SOUTH LINE OF SAID FORTY-ACRE TRACT N03°25'28"E A DISTANCE OF 688.68' TO A SET 1/2" REBAR; THENCE N 86°48'30"W A DISTANCE OF 56.65' TO A FOUND 1/2" REBAR; THENCE N03°11'30"E PASSING THROUGH A FOUND 1/2" REBAR AT A DISTANCE OF 425.32' AND FOR A TOTAL DISTANCE OF 470.58'; TO A POINT LOCATED ON THE CENTERLINE OF ARKANSAS -16; THENCE ALONG THE CENTERLINE FOR THE FOLLOWING FOUR (4) COURSES AND DISTANCES S44°30'30"E A DISTANCE OF 437.37'; THENCE S44°02'00"E A DISTANCE OF 388.11'; THENCE S47°06'00"E A DISTANCE OF 146.01'; THENCE S52°58'00"E A DISTANCE OF 148.49' TO THE INTERSECTION OF ARKANSAS-16 AND ELKHORN SPRINGS ROAD; THENCE ALONG THE CENTERLINE OF SAID ELKHORN ROAD THE FOLLOWING THREE (3) COURSES AND DISTANCES S41°36'45"W A DISTANCE OF 172.45'; THENCE S43°04'36"W A DISTANCE OF 208.30'; THENCE S44°49'58"W A DISTANCE OF 160.57'; THENCE LEAVING SAID CENTERLINE AND RUNNING ALONG THE SOUTH LINE OF SAID FORTY-ACRE TRACT, N88°09'17"W A DISTANCE OF 442.88' RETURNING TO THE POINT OF BEGINNING HAVING A TOTAL AREA OF 541,813 SQ. FEET OR 12.438 ACRES MORE OR LESS AND IS SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

SURVEY DESCRIPTION

TRACT 1:
A PART OF THE NORTHEAST QUARTER (NE1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF SECTION 8, TOWNSHIP 16 NORTH, RANGE 31 WEST IN WASHINGTON COUNTY, STATE OF ARKANSAS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:
COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 8 AT A FOUND 1/2" REBAR; THENCE, SOUTH 88°09'17" EAST 214.81 FEET TO A FOUND 1/2" REBAR CAPPED "1532", BEING THE TRUE POINT OF BEGINNING; THENCE, NORTH 03°25'28" EAST 688.68 FEET TO A FOUND 1/2" REBAR CAPPED "1826"; THENCE, NORTH 86°48'30" WEST 56.65 FEET TO A FOUND 1/2" REBAR; THENCE, NORTH 03°11'30" EAST 470.58 FEET TO THE CENTERLINE OF ARKANSAS 16; THENCE, ALONG SAID CENTERLINE, SOUTH 44°30'30" EAST 220.73 FEET; THENCE, LEAVING SAID CENTERLINE, SOUTH 03°11'30" WEST 217.67 FEET TO A SET 5/8" REBAR CAPPED "AR PLS 1659"; THENCE, SOUTH 36°58'10" EAST 694.37 FEET TO A SET 5/8" REBAR CAPPED "AR PLS 1659"; THENCE, SOUTH 34°33'57" EAST 80.53 FEET TO THE CENTERLINE OF ELKHORN SPRINGS ROAD; THENCE, ALONG SAID CENTERLINE, SOUTH 43°04'36" WEST 89.05 FEET; THENCE, SOUTH 44°49'58" WEST 160.57 FEET TO A FOUND COTTON PICKER SPINDLE; THENCE, LEAVING SAID CENTERLINE, NORTH 88°09'17" WEST 442.88 FEET TO THE POINT OF BEGINNING. CONTAINING 8.438 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHT-OF-WAYS OF RECORD.

TRACT 2:
A PART OF THE NORTHEAST QUARTER (NE1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF SECTION 8, TOWNSHIP 16 NORTH, RANGE 31 WEST IN WASHINGTON COUNTY, STATE OF ARKANSAS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:
COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 8 AT A FOUND 1/2" REBAR; THENCE, SOUTH 88°09'17" EAST 657.69 FEET TO A FOUND COTTON PICKER SPINDLE MARKING THE CENTERLINE OF ELKHORN SPRINGS ROAD; THENCE, ALONG SAID CENTERLINE, NORTH 44°49'58" EAST 160.57 FEET; THENCE, NORTH 43°04'36" EAST 89.05 FEET TO THE TRUE POINT OF BEGINNING; THENCE, LEAVING SAID CENTERLINE, NORTH 34°33'57" WEST 80.53 FEET TO A SET 5/8" REBAR CAPPED "AR PLS 1659"; THENCE, NORTH 36°58'10" WEST 694.37 FEET TO A SET 5/8" REBAR CAPPED "AR PLS 1659"; THENCE, NORTH 03°11'30" EAST 217.64 FEET TO THE CENTERLINE OF ARKANSAS 16; THENCE, ALONG SAID CENTERLINE, SOUTH 44°30'30" EAST 216.64 FEET; THENCE, SOUTH 44°02'00" EAST 388.11 FEET; THENCE, SOUTH 47°06'00" EAST 146.01 FEET; THENCE, SOUTH 52°58'00" EAST 148.49 FEET TO THE INTERSECTION OF ARKANSAS 16 & ELKHORN SPRINGS ROAD; THENCE, ALONG SAID CENTERLINE OF ELKHORN SPRINGS ROAD, SOUTH 41°36'45" WEST 172.45 FEET; THENCE, SOUTH 43°04'36" WEST 119.25 FEET TO THE POINT OF BEGINNING. CONTAINING 4.000 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHT-OF-WAYS OF RECORD.

MISCELLANEOUS NOTES

STATE RECORDING NUMBER:
500-16N-31W-0-08-310-72-1659

COMPLETED FIELD WORK:
JANUARY 18, 2023

BASIS OF BEARING
THE BASIS OF BEARING OF THIS SURVEY IS GRID NORTH, BASED ON ARKANSAS STATE PLANE COORDINATE SYSTEM, NORTH ZONE NAD83.

REFERENCE DOCUMENTS:
WARRANTY DEED FILED IN DEED BOOK 1046 AT PAGE 954.
SURVEY PLAT FILED IN 2020-00044142.

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NO ACCESS TO CITY OF FAYETTEVILLE WATER OR SEWER SERVICES FOR THESE LOTS.

FLOOD ZONE INFORMATION

BY GRAPHIC PLOTTING ONLY, NO PORTION OF THIS PROPERTY IS IN ZONE "A" OR "AE" OF THE FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 05143C0185F, WHICH BEARS AN EFFECTIVE DATE OF 05/16/2008 AND IS NOT IN A SPECIAL FLOOD HAZARD AREA.

UTILITY INFORMATION

THE LOCATION OF UTILITIES SHOWN HEREON ARE FROM OBSERVED EVIDENCE OF ABOVE GROUND APPURTENANCES ONLY. THE SURVEYOR WAS NOT PROVIDED WITH UNDERGROUND PLANS OR SURFACE GROUND MARKINGS TO DETERMINE THE LOCATION OF ANY SUBTERRANEAN USES.

OWNER/DEVELOPER

DAVID & VIRGINIA SCOTT
15505 ELKHORN SPRINGS RD
FAYETTEVILLE, AR 72704-0364

SIGNATURE BLOCKS

CERTIFICATE OF SURVEY AND ACCURACY:
I HEREBY CERTIFY THAT THE PLAT SHOWN AND DESCRIBED HEREON IS A TRUE AND CORRECT SURVEY AND THAT THE MONUMENTS HAVE BEEN PLACED AS SHOWN HEREON AS REQUIRED BY "REGULATIONS, STANDARDS AND SPECIFICATIONS FOR THE DIVISION, DEVELOPMENT AND IMPROVEMENT OF UNINCORPORATED LAND IN WASHINGTON COUNTY.
DATE: _____

_____
WILLIAM G. GAGNER PLS #1659
PROFESSIONAL LAND SURVEYOR

CERTIFICATE OF OWNERSHIP & DEDICATION:

I HEREON CERTIFY THAT I AM THE OWNER OF THE PROPERTY DESCRIBED HEREON AND I DO HEREBY DEDICATED ALL STREET, ACCESS, UTILITY & DRAINAGE EASEMENTS TO PUBLIC OR PRIVATE USE AS INDICATED.

_____ _____
DATE OWNER

_____ _____
DATE OWNER

ZONING INFORMATION

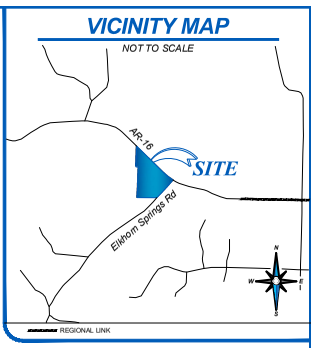
CURRENT ZONING: AG/SF RESIDENTIAL 1 UNIT PER ACRE

SETBACK REQUIREMENTS:
FRONT - 25' (BSB & UE)
SIDE - 10'
REAR - 20'

PROPOSED USE: AG/SF RES 1 UNIT PER ACRE

VICINITY MAP

NOT TO SCALE



LEGEND & SYMBOLS

- FOUND MONUMENT (AS NOTED)
- SET 5/8" REBAR CAPPED "AR PLS 1659"
- POWER POLE
- WATER METER
- WATER VALVE
- POC — POINT OF COMMENCEMENT
- POB — POINT OF BEGINNING
- POT — POINT OF TERMINATION
- BOUNDARY LINE
- EASEMENT LINE
- RIGHT-OF-WAY LINE (R/W)
- CENTERLINE (C/L)
- FENCE LINE
- OVERHEAD POWER LINE
- SETBACK LINE (BSB)
- UNDERGROUND WATER LINE

I HEREBY CERTIFY THIS TO BE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF ON THIS THE 20TH DAY OF JANUARY, 2023.

CERTIFICATE OF AUTHORIZATION
BLEW & ASSOCIATES, PA
No. 1534
ARKANSAS

REGISTERED
STATE OF ARKANSAS
NO.1659
SIGNATURE
W. GAGNER
PROFESSIONAL LAND SURVEYOR

IF THE SIGNATURE ON THIS SEAL IS NOT AN ORIGINAL AND NOT BLUE IN COLOR THEN IT SHOULD BE ASSUMED THAT THIS PLAT MAY HAVE BEEN ALTERED. THE ABOVE CERTIFICATION SHALL NOT APPLY TO ANY COPY THAT DOES NOT BEAR AN ORIGINAL SEAL AND SIGNATURE.

SHEET 1 OF 1

DATE	REVISION HISTORY	BY

BLEW & ASSOCIATES, P.A.
Surveying
Engineering
Mapping
3825 N. SHILOH DRIVE - FAYETTEVILLE, AR 72703
EMAIL:SURVEY@BLEWINC.COM
OFFICE: 479.443.4506 ·FAX: 479.582.1883
EMAIL: SURVEY@BLEWINC.COM·WWW.BLEWINC.COM

SURVEYOR JOB NUMBER: 23-0282	SURVEY DRAWN BY: ANC - 1/20/2023
SURVEY REVIEWED BY: TPN	SCALE: 1" = 100'
FOR THE USE AND BENEFIT OF: DANIEL INGRAM	Plat Page 430

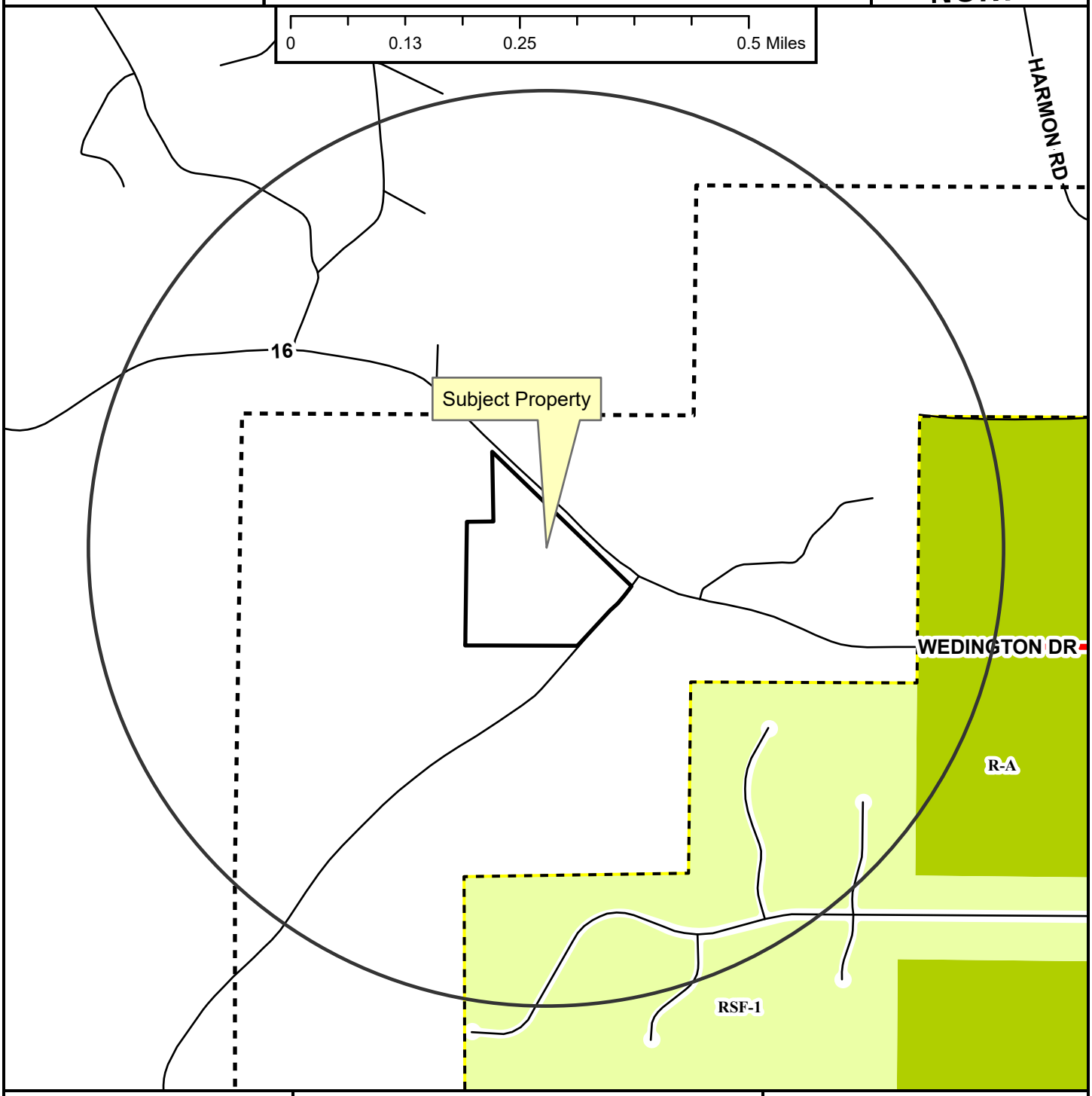
VAR-2023-0008 (INGRAM, Daniel)
March 27, 2023
Page 25 of 452
Page 6 of 9

VAR-2023-0008

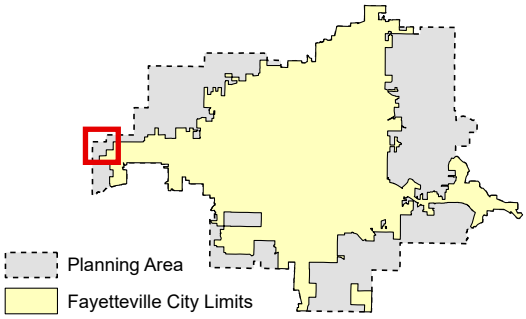
One Mile View

15005 ELKHORN SPRINGS RD

NORTH



Regional Link
Unclassified
Residential Link
Fayetteville City Limits
Planning Area



Zoning

RESIDENTIAL SINGLE-FAMILY
NS-G
RI-U
RI-12
NS-L
Residential-Agricultural
RSF-.5
RSF-1
RSF-2
RSF-4
RSF-7
RSF-8
RSF-18

RESIDENTIAL MULTI-FAMILY
RMF-6
RMF-12
RMF-18
RMF-24
RMF-40

INDUSTRIAL
I-1 Heavy Commercial and Light Industrial
I-2 General Industrial

EXTRACTION
E-1

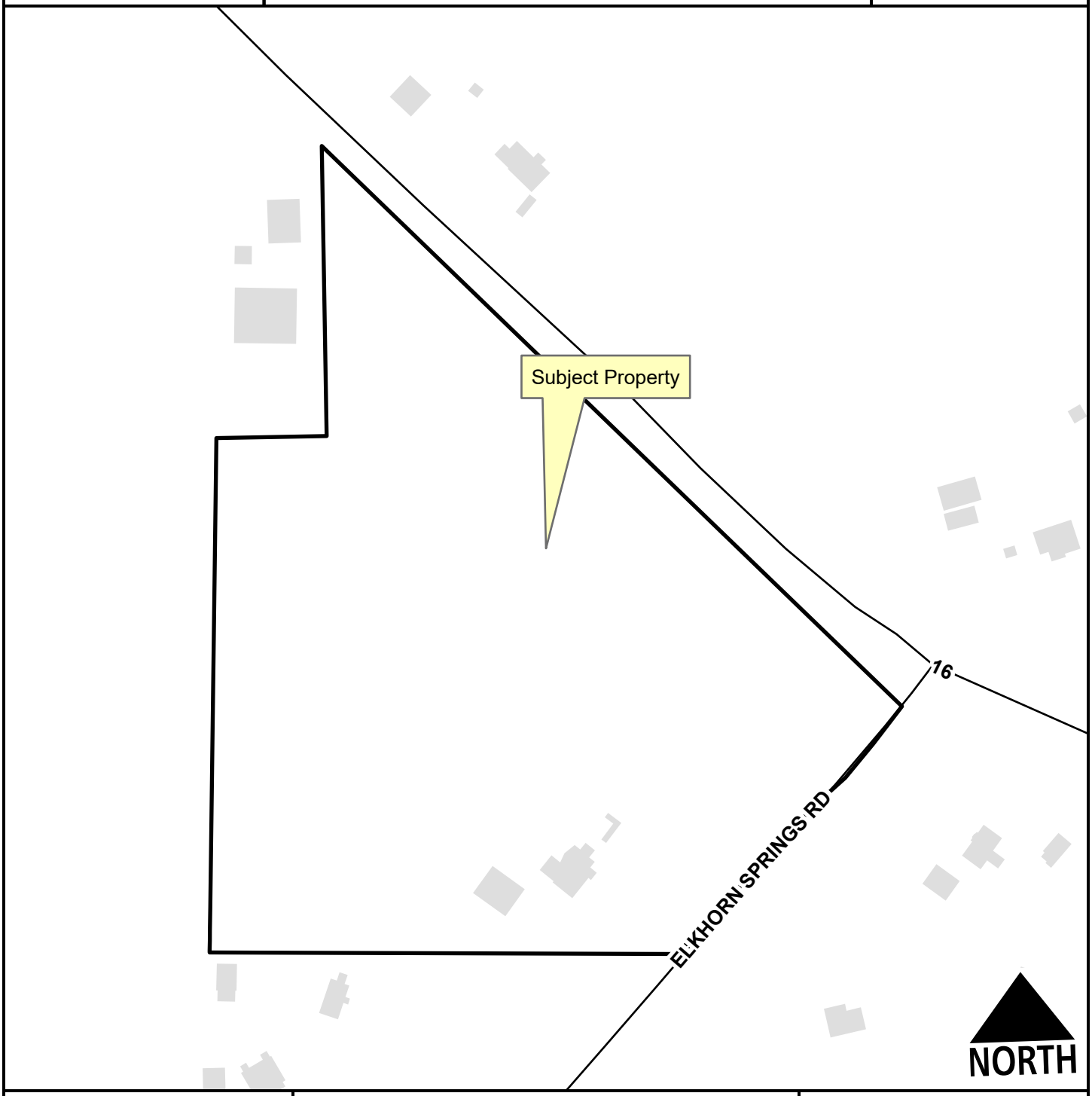
COMMERCIAL
Residential-Office
C-1
C-2
C-3

FORM BASED DISTRICTS
Downtown Core
Urban Thoroughfare
Main Street Center
Downtown General
Community Services
Neighborhood Services
Neighborhood Conservation

PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

VAR-2023-0008	**15005 ELKHORN SPRINGS RD**	
Close Up View		



Unclassified

Planning Area

Feet

0 75 150 300 450 600

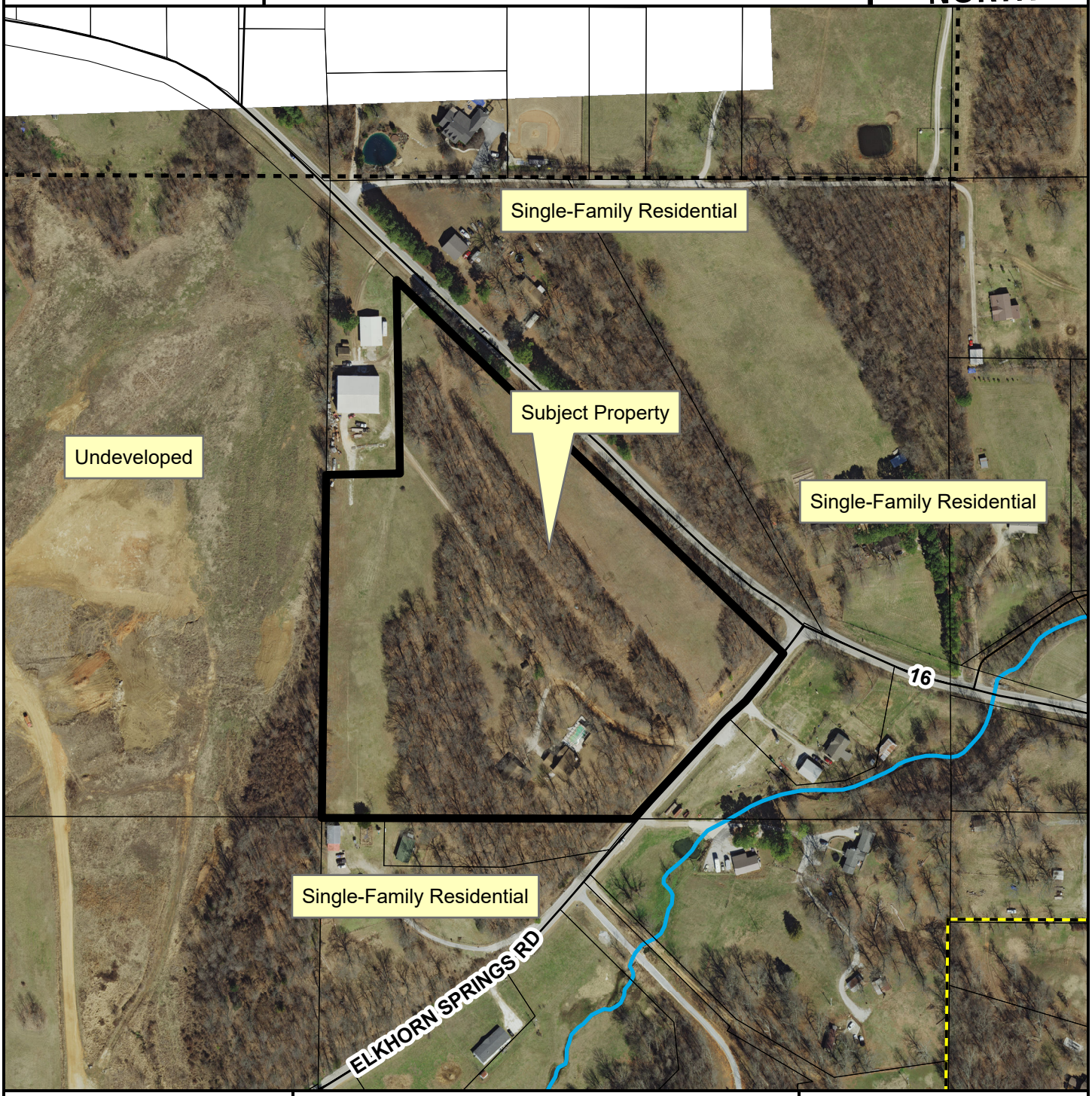
1:2,400

VAR-2023-0008

Current Land Use

15005 ELKHORN SPRINGS RD

NORTH



Unclassified

Planning Area

Fayetteville City Limits

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

100-Year Floodplain

Floodway

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager
Melissa Boyd, Staff Engineer
Melissa Evans, Urban Forester

MEETING: March 27, 2023

SUBJECT: **LSD-2022-0041: Large Scale Development (N. HWY 112/112 ARONSON, 209):** Submitted by ENGINEERING SERVICES INC. for property located on N. HWY. 112. The property is zoned C-2, THOROUGHFARE COMMERCIAL and UT, URBAN THOROUGHFARE and contains approximately 31.20 acres. The request is for a development with 214 residential units, 40,000 sq. ft. movie theater, and associated parking.

RECOMMENDATION:
Staff recommends approval of **LSD-2022-0041** with conditions.

RECOMMENDED MOTION: *"I move to approve* **LSD-2022-0041**, *determining:*

- *In favor of recommended right-of-way dedication,*
- *In favor of recommended street improvements,*
- *In favor of a variance to UDC §166.25(D)(2),*
- *No recommendation of a variance to UDC §168.10(U),*
- *In favor of a variance to UDC §172.04(E),*
- *In favor of a variance to UDC §172.05(A)(7),*
- *In favor of a variance to UDC §177.04(C)(1)(a) and (b), and*
- *In favor of all other conditions as recommended by staff."*

MARCH 13, 2023 PLANNING COMMISSION MEETING
The item was tabled at the March 13, 2023 Planning Commission meeting, at the recommendation of the Engineering Division, to allow time for the applicant to respond to inconsistent information in the drainage report and the flood study. The applicant has resubmitted a variance request to allow for an increase to the Base Flood Elevation. Engineering staff is unable to make a recommendation on this variance.

BACKGROUND:
The subject property is the former site of the 112 Drive-In in north Fayetteville, southeast of the intersection of Highway 112 and Van Asche Drive. The property is zoned UT, Urban Thoroughfare, and C-2, Thoroughfare Commercial, and it received this zoning classification in 2022. The site is partially located within a FEMA floodplain, contains a protected stream and hydric soils, and is sparsely vegetated. Portions of the property are also located within the current boundary of the Enduring Green Network and the I-540 Overlay District. Surrounding land uses and zoning is depicted in *Table 1.*

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Commercial (Retail)	C-2, Thoroughfare Commercial
South	Commercial (Car Dealership)	C-2, Thoroughfare Commercial
East	Undeveloped	C-2, Thoroughfare Commercial
West	Undeveloped; Institutional (Church)	RPZD, Residential Planned Zoning District; CS, Community Services

Proposal: The applicant requests Large Scale Development approval of 214 residential units, three commercial buildings, including a movie theater, and associated parking. The applicant has requested several variances to the Unified Development Code:

- **§166.25(D)(2): Shared drives and cross access between properties shall be encouraged to adjacent developed and undeveloped properties.** The applicant has requested a variance from this requirement to the east, south, and north of the overall property, citing conflicts with the streamside protection ordinance and floodplain requirements.
    - *Staff recommendation: Staff is supportive of this variance and has historically interpreted the ordinance to require a variance when no cross-access is provided for, either by easement or by stub-out. Staff finds that the environmental challenges adjacent to the commercially-developed portion of the site present significant hardship in creating a feasible future connection to the east and to the south. The project is not required to meet the same connectivity standard to the residential portion of the project because the applicant is proposing to use private drives; that said, the applicant is showing an intent to provide connectivity throughout the development itself, and staff finds that the spirit and intent of the ordinance is overall being met. The City Attorney's office has also issued a memo regarding staff's interpretation and recommends that the Planning Commission approve.*

- **§168.10(U): Provisions for Flood Hazard Reduction.** The applicant has requested a variance for the development to increase flood height in a special flood hazard area. In their letter the applicant says the development will increase the Base Flood Elevation by 1.56 inches at a point just upstream of where Clabber Creek crosses under Highway 112.
    - *Staff recommendation: Staff is unable to make a recommendation on the requested variance. The applicant says the increase will be temporary because of forthcoming improvements by ArDOT to Highway 112. Specifically, the applicant asserts that planned culverts which convey Clabber Creek under Highway 112 will be upsized, rendering the increase to the Base Flood Elevation temporary. Staff is unable to make a recommendation based on future improvements to Highway 112 since the timeline for the completion of the project is unknown.*

- **§172.04(E): Dimensional requirements for 90-degree parking spaces.** The applicant has requested a variance to the standard dimensional requirements for parking spaces, which is typically 9 feet by 19 feet. The applicant is proposing spaces that are approximately 13 feet by 20 feet.
    - *Staff recommendation: Staff is supportive of this variance request. Potential customers will stay in their vehicles while viewing movies on an outdoor screen. While seated, patrons can receive food and drink service from staff of the movie theater complex. Staff finds that the added width allows for employees to move in and out of the vehicle parking spaces to serve patrons at that location.*

- **§172.05(A)(7): Maximum number of parking spaces permitted.** The applicant has requested a variance to the maximum number of parking spaces permitted for a movie theater, which is typically calculated at 1 space per 4 seats. The applicant is requesting additional parking spaces to serve an outdoor movie theater portion of the property.
    - *Staff recommendation: Staff is supportive of this variance request. The intent of the ordinance is to prevent an oversupply of parking on site. Per ordinance, the applicant is permitted to have 211 parking spaces to serve the 844 indoor movie theater seats. Code allows for an additional, by-right increase of 15%, meaning the property is entitled to a total of 243 parking spaces for the use of a theater. The applicant is requesting a total of 256 parking spaces, which is 13 spaces above which is permitted by-right. The atypical nature of the spaces in question requires an atypical consideration, and staff is supportive of this since the parking spaces are meant to essentially act as additional seats for the movie theater complex.*

- **§177.04(C)(1)(a) and (b): Narrow Tree Lawn or Tree Island shall be provided in parking lots containing ten or more spaces.** The applicant has requested a variance from providing either a narrow tree lawn or a tree island in the southern portion of the parking lot meant to serve the outdoor movie screen.
    - *Staff recommendation: Staff is supportive of this variance request, finding that due to the parking spaces being proposed as serving an outdoor movie theater, an additional landscape screen with trees may run counter to the proposal, since added landscaping in that location may prevent views to the theater.*

Right-of-Way to be Dedicated:
HWY 112 (ARDOT): Staff does not recommend any additional right-of-way dedication along the property's frontage. Right-of-way acquisition is being undertaken by ARDOT, and the proposed dimension exceeds that of the typical master street plan standards for a Regional Link street.

Street Improvements:
HWY 112 (ARDOT): Staff recommends that an 8-foot sidewalk and 10-foot greenspace be installed along the property's frontage. Staff recognizes the complexity of coordinating with a forthcoming street improvement that is being undertaken by a separate entity from the City, but recommends that the plans show full build-out of these elements and that the applicant submit to ARDOT for review to establish whether applicant will construct, or a pass-through agreement be made for the cost and for ARDOT to construct. Staff also recommends streetlights and street trees to be constructed in a manner consistent with ordinance.

Access Management/Connectivity: The applicant proposes to access the site in two locations and has been coordinating with ARDOT with regards to that entity's proposed expansion. The applicant is proposing a temporary entrance to the property that will eventually be converted to a roundabout at the southern end of the site, and a private drive at the northern end of the site. The two driveways meet the City of Fayetteville's typical access management standards as far as curb separation. Per the 166.25 Commercial, Office, Mixed-Use, Design and Development Standards, the applicant has requested a variance to the requirement for cross-access to the east, south, and north of the property as outlined above.

Design Standards: The structures located within the residential portion of the project are subject to the standards as outlined in chapter 166.23, the Urban Residential Design standards. The applicant is substantially compliant with these standards. The commercial portion of this site is zoned C-2, so the standards as outlined in 166.25, Commercial, Office, Mixed-Use, Design and

Development standards are required to be met. The proposed movie theater structure appears to be largely compliant with the architectural design standards as outlined in this portion of code. The applicant has also requested variances to the parking lot design requirements, which are outlined in full above.

Water and Sewer System: An 8" water main is proposed to serve the development. 6" fire lines are proposed for the three multi-family buildings and the movie theater. Two connections will be made to the existing 6" water main, though that 6" water main is scheduled to be relocated and replaced with a 12" water main. Sewer is proposed to be extended throughout the site with three new connections to the existing 8" sanitary sewer main. This is also scheduled to be replaced in conjunction with the HWY 112 improvements.

Parkland dedication or fee in-lieu: The project went before the Parks and Recreation Advisory Board on August 1, 2022, where it was recommended for fee-in-lieu of parkland dedication. The amount was for $218,538 based on the applicant's proposed 212 units; at this time, the applicant is showing 214 residential units. The actual amount will be based upon the number of units ultimately approved by the Planning Commission, and must be paid prior to building permit.

Tree Preservation:
Canopy minimum requirement: 15%
Existing canopy: 10.9%
Preserved canopy: 7.6%
Mitigation required: (141) 2-inch caliper trees

Public Comment: Staff has received inquiries about the project, and one statement in opposition to the applicant's request for a variance to provide cross-access. The neighboring property owner would like to see cross access provided by the applicant to the property to the east.

RECOMMENDATION: Staff recommends approval of **LSD-2022-0041** with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of right-of-way dedication.** *Staff does not recommend any additional right-of-way dedication, as right-of-way acquisition is being conducted by ARDOT;*

   Subdivision Committee recommended in favor.

2. **Planning Commission determination of street improvements.** *Staff recommends Master Street Plan Standards for HWY 112 frontage, which includes an 8-foot sidewalk and 10-foot greenspace. Coordination with ARDOT shall be conducted to either construct improvements, or pay cost of constructing improvements to ARDOT;*

   Subdivision Committee recommended in favor.

3. **Planning Commission determination of a variance to §166.25(D)(2), requiring shared drives and cross access between properties shall be encouraged to adjacent developed and undeveloped properties.** *Staff recommends in favor of the variance for the reasons outlined above.*

Subdivision Committee recommended in favor.

4. **Planning Commission determination of a variance to §168.10(U), Provisions for Flood Hazard Reduction.** *Staff does not have a recommendation on the variance for the reasons outlined above.*

Subdivision Committee did not make a recommendation.

5. **Planning Commission determination of a variance to §172.04(E), dimensional requirements for 90-degree parking spaces.** *Staff recommends in favor of the variance for the reasons outlined above.*

Subdivision Committee recommended in favor.

6. **Planning Commission determination of a variance to §172.05(A)(7), the maximum number of parking spaces permitted.** *Staff recommends in favor of the variance for the reasons outlined above.*

Subdivision Committee recommended in favor.

7. **Planning Commission determination of a variance to §177.04(C)(1)(a) and (b): Narrow Tree Lawn or Tree Island shall be provided in parking lots containing ten or more spaces.** *Staff recommends in favor of the variance for the reasons outlined above.*

Subdivision Committee recommended in favor.

8. A determination from the Zoning and Development Administrator must be on file prior to grading permit to exempt the project from the minimum buildable street frontage requirement in the UT zoning district;

9. Property line adjustment shall be filed to dissolve property lines to keep the entire site on one lot, or to create the desired legal lots of record;

10. Streetlights must be installed at intersections and at a linear spacing distance of no more than 300 feet;

11. Conditions of approval from Engineering and Urban Forestry are included in the official conditions of approval, attached hereto;

Standard Conditions of Approval:

1. Impact fees for fire, police, water, and sewer shall be paid in accordance with City ordinance;

2. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives: Black Hills Energy, AT&T, Ozarks, SWEPCO, and Cox Communications);

3. All mechanical/utility equipment (roof and ground mounted) shall be screened using materials that are compatible with and incorporated into the structure. A note shall be clearly placed on the plat and all construction documents indicating this requirement;

4. Trash enclosures shall be screened on three sides with materials complimentary to and compatible with the principle structure. Containers may also be screened from view of the street by the principal structure or vegetation. Elevations of the proposed dumpster enclosure shall be submitted to the Planning and Solid Waste Divisions for review prior to building permit;

5. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground;

6. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements;

7. All exterior lights shall comply with the City lighting ordinance. Manufacturer's cut-sheets are required for review and approval prior to issuance of a building permit;

8. All freestanding and wall signs shall comply with ordinance specifications for location, size, type, number, etc. Any proposed signs shall be permitted by a separate sign permit application prior to installation. Freestanding pole signs and electronic message boards (direct lighting) are prohibited in the I-540 Design Overlay District;

9. Large scale development shall be valid for one calendar year;

10. Contact the City's Emergency 911 Address Coordinator for addressing prior to building permit;

11. Prior to building permit, a cost estimate for all required landscaping is to be submitted to the Landscape Administrator for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy; and

12. Prior to the issuance of a building permit the following is required:
    a. Grading and drainage permits;
    b. Separate easement plat for this project that shall include the tree preservation area and all utility and access easements;
    c. Exterior lighting package must be provided to the Planning Division;
    d. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance;
    e. Project Disk with all final revisions; and
    f. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

PLANNING COMMISSION ACTION:	**Required**	**YES**		
Date: March 27, 2023	**❒ Tabled**	**❒ Forwarded**	**❒ Denied**	
Motion:				
Second:				
Vote:				

BUDGET/STAFF IMPACT:
None

ATTACHMENTS:

- Engineering Memo
- Urban Forestry Comments
- Parks Memo
- Legal Memo – Cross Access
- Request Letter
- Variance Request Letter
- Site Plan
- Elevations
- Public Comment
- One Mile Map
- Close-up Map
- Current Land Use Map

CITY OF FAYETTEVILLE ARKANSAS

STAFF MEMO

TO: Jessie Masters, Development Review Manager

FROM: Melissa Boyd, Staff Engineer

DATE: March 22, 2023

SUBJECT: **Planning Commission Engineering Comments for LSD-2022-0041 THE ARONSON**

Water: Approximately 7,100 LF of 8" water main is proposed to serve the development. 6" fire lines are proposed for the three multifamily buildings and the movie theater. They are proposing two connections to the existing 6" water main along Highway 112. As part of the Arkansas Department of Transportation's improvements to Highway 112, the existing 6" water main will have to be relocated and is to be replaced with a 12" water main.

Sewer: The development is proposing to extend approximately 5,400 LF of sanitary sewer main throughout the property. There are three new connections shown to the existing 8" sanitary sewer main. This line will also be relocated and replaced with a new 8" sanitary sewer main due to the ArDOT Highway 112 improvements.

Natural Features: Most of the subject property lies within a FEMA Zone AE floodplain. Clabber Creek, a protected stream, is present along the southern property boundary and is within the floodway. An unnamed tributary, also a protected stream, is present for roughly two-thirds of the east property boundary and continues along the south portion of the property until its confluence point with Clabber Creek at Highway 112. No work is shown in the streamside protection zones.

Hydric soils are present on this property. The applicant has provided a wetland study identifying several areas as potential jurisdictional wetlands. Prior to grading permit issuance, permits shall be obtained from the U.S. Army Corps of Engineers for work proposed within all jurisdictional wetland areas.

A variance has been requested to UDC §168.10(U) to allow for an increase in Base Flood Elevation of 1.56 inches (0.13 feet) at Comparison Point 3, which is just upstream of where Clabber Creek crosses under Highway 112. The applicant cites that this increase will only be temporary because when ArDOT constructs the Highway 112 improvements, these elevations will decrease as the culverts that convey Clabber Creek under Highway 112 will be upsized as a part of that project. Staff is unable to make a recommendation to the Planning Commission on this variance as the timeline for the completion of the ArDOT improvements is unknown.

Drainage: The four Minimum Standards of the Drainage Criteria Manual are required to be met by this development. The water quality requirements are proposed to be met using wet extended detention. Channel protection requirements appear to be met, but clarification is needed to confirm this as the channel protection hydrographs show more outlet pipes from the underground

detention than are included in the plans and overall site hydrographs. Overbank flood protection and extreme flood protection requirements appear to be met with the current design.

Based on the most recent information in the Engineer's drainage report and previous reviews of this project, the City's drainage requirements appear to be met, but there are several remaining items that must be addressed prior to Engineering issuing the grading permit, including but not limited to what is outlined below:

1. Information is needed showing how the detention pond and permanent pool storing the water quality volume interact.
2. Basin delineation needs to be further revised (more detailed comments available on drainage report).
3. Compensatory storage volume calculations need to be provided.

Plan Comments:

1. Include a table with pipe size, type, and length for proposed water main, fire line, and sanitary sewer main.
2. Retaining walls over 4 feet in height require plans designed and stamped by a Professional Engineer registered in the state of Arkansas.
3. Address drainage comments outlined on the plans.

Standard Comments:

1. All designs are subject to the City's latest design criteria (water, sewer, streets and drainage). Review for plat approval is not approval of public improvements, and all proposed improvements are subject to further review at the time construction plans are submitted.
2. Any damage to the existing public street due to construction shall be repaired/replaced at the owner/developers expense
3. All public sidewalks, curb ramps, curb & gutter, and driveway aprons along this project frontage must meet ADA guidelines and be free of damage. Any existing infrastructure that does not conform to ADA guidelines or is otherwise damaged must be removed and replaced to correct the issue. Coordinate with the engineering department for inspection of existing facilities to determine compliance.
4. Water and sewer impact fees will apply for the additional impact to the system. The fees will be based on the proposed meter size and will be charged at the time of meter set.
5. Note, the following portions of all projects will typically not be reviewed by the Engineering Division until time of construction-level review (unless specifically requested at plat review):
    - Storm Sewer pipe/inlet sizing, gutter spread, profiles, or utility conflicts
    - Sanitary Sewer pipe sizing, profiles, or utility conflicts
    - Waterline fittings, callouts, or utility conflicts
    - Street profiles
    - Fine grading/spot elevations

CITY OF FAYETTEVILLE ARKANSAS

URBAN FORESTRY
LANDSCAPE PLAN COMMENTS

To: Jason Appel, P.E., ESI

From: Melissa M. Evans, Urban Forestry

CC: Jessie Masters, Development Review Manager

Meeting Date: March 13, 2023

Subject: LSD-2022-0041: 112 Aronson: N Hwy 112, 209

1. General Landscape Plan Checklist	Yes	No	N/A
a. Irrigation (notes either automatic or hose bib 100' o.c.) *UDC Chapter 177.03C7g, 177.04B3a*	X		
b. Species of plant material identified *UDC Chapter 177.03C7d,e*	X		
c. Size of plant material (minimum size 2" caliper for trees and 3 gal. shrubs) *UDC Chapter 177.03C7b,c*	X		
d. Soil amendments notes include that soil is amended and sod removed *UDC Chapter 177.03C6b*	X		
e. Mulch notes indicate organic mulching around trees and within landscape beds *UDC Chapter 177.03C6c,d*	X		
f. LSD, LSIP, and Subdivisions (PPL & FPL) plans stamped by a licensed Landscape Architect, others by Landscape Designer *UDC Chapter 177.03B*	X		
g. Planting bed contained by edging *UDC Chapter 177.03C6f*	X		
h. Planting details according to Fayetteville's Landscape Manual *UDC Chapter 177.03C6g*	X		
i. Provide information about 3-Year Maintenance plan. The owner shall deposit with the City of Fayetteville a surety for approved landscape estimate. *UDC Chapter 177.05 A2g*	X		

2. Parking Lot Requirements 1 Tree : 12 Parking Spaces	Yes	No	N/A
a. Wheel Stops/Curbs *UDC Chapter 177.04B1*	X		
b. Narrow Tree Lawn (8' min. width, 37.5' length) *UDC Chapter 177.04C*	X		

c.	Tree Island (8’ min. width, 18.7’ min length OR 150 square feet) *UDC Chapter 177.04C*	**X**		
d.	Placement of Trees (either side at entrances and exits) *UDC Chapter 177.04C2*	**X**		
3.	**Perimeter Landscaping Requirements**	**Yes**	**No**	**N/A**
a.	Front Property Line (15’ wide landscape) and five on sides. *UDC Chapter 177.04D2a*	**X**		
b.	Side and Rear Property Lines (5’ Wide Landscape Area) *UDC Chapter 177D1*	**X**		
c.	Shade trees planted on south and west sides of parking lots *UDC Chapter 177.04D2e*	**X**		
d.	Screening of parking lot from adjacent residential properties and the street.	**X**		
4.	**Street Tree Planting Requirements**	**Yes**	**No**	**N/A**
a.	Residential Subdivisions 1 Large Shade Species Tree per Lot *UDC Chapter 177.05B1a*			**X**
b.	Non-Residential Subdivisions 1 Large Species Shade Tree every 30’ (planted in greenspace) *UDC Chapter 177.05B2a*			**X**
c.	Urban Tree Well – Urban Streetscapes Trees every 30’ (8’ sidewalk) *UDC Chapter 177.05B3a-f*			**X**
d.	Structured Soil – Urban Tree Wells Include a note and/or detail of structural soil on Landscape Plan *UDC Chapter 177.05B3a-f*			**X**
e.	Residential Subdivisions Timing of planting indicated on plans *UDC Chapter 177.05A4*			**X**
f.	Residential Subdivisions Written description for method of tracking planting *UDC Chapter 177.05A4e*			**X**

5. Landscape Requirement Totals	Amount
Mitigation Trees	**141**
Parking Lot Trees	**28**
Street Trees	**43**
Detention Pond – Large Trees (1 Tree/3,000 square feet)	**33**
Detention Pond – Small Tree/Large Shrub (4 small trees or large shrubs/3,000 square feet)	**133**
Detention Pond – Small Shrubs/Large Grasses (6 shrubs or grasses (1 gallon)/3,000 square feet)	**200**

6. Review Status (See Comments)	Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved	**12-13-22**	**02-14-23**	**03-13-23**
	01-13-23	**03-01-23**	
	01-30-23		
Approved			
Tabled			
Denied			

Comments

1. Address items above marked “No” and all Redlines provided.
2. A narrow tree lawn is in place for the Drive-In parking area north spaces in lieu of tree islands. A variance from Planning Commission must be sought for the south parking row north of the pond by the drive-in screen, since the only exemptions for parking lot trees is areas for vehicle sales, lease or rental per Ch. 177.
   Urban Forestry supports the variance request from the applicant since it is understandable that a tree in the middle of that parking row would impede the view of the movie screen, and an extra parking tree is proposed in the narrow tree lawn north of the drive-in parking spaces.

CITY OF FAYETTEVILLE ARKANSAS

URBAN FORESTRY
TREE PRESERVATION COMMENTS

To: Jason Appel, P.E., ESI

From: Melissa M. Evans, Urban Forestry

CC: Jessie Masters, Development Review Manager

Meeting Date: March 13, 2023

Subject: LSD-2022-0041: 112 Aronson: N Hwy 112, 209

1. Submittal Requirements	Yes	No	N/A
Initial Review with the Urban Forester	X		
Site Analysis Map Submitted (if justification is needed)	X		
Site Analysis Written Report Submitted (justification is needed)	X		
Complete Tree Preservation Plan Submitted	X		
Tree Mitigation Table on Plans	X		
Tree Preservation Wavier Submitted (only use if no trees onsite or near P/L)			X
2. Tree Preservation Calculations			

Tree Preservation Calculations		
	Square Feet	**Percent of site**
Total Site Area *Minus Right of Way and Easements	1,389,746	100%
*Zoning Designation * Select Below with drop down arrow*		
C-2, Thoroughfare Commercial	208,462	15%
*HHOD * Select Below with Drop Down Arrow*		
No	0	0%
Total Canopy for Minimum Preservation Requirements	208,462	15.0%
Existing Tree Canopy * Minus Right of Way and Easements	151,469	10.9%
Tree Canopy Preserved	104,999	7.6%
Tree Canopy Removed *On Site	46,470	3.3%
Tree Canopy Removed *Off Site	0	
Tree Canopy Removed Total	46,470	3.3%
Removed Below Minimum	**103,463**	
Mitigation Requirements	**46,470**	

3. Mitigation Requirements	Canopy below requirement	Number of 2" caliper trees to be planted
High Priority	15,015	69
Low Priority	31,455	72
Total Mitigation Trees Required	**46,470**	**141**

4. Mitigation Type	Yes	No	N/A
On-Site Mitigation	**X**		
Off-Site Mitigation			**X**
Tree Escrow (See Conditions of Approval)			**X**

5. Tree Preservation Plan Checklist *UDC Chapter 167.04H1*	Tech Plat	Subdivision Committee	Planning Commission
a. 5 year Aerial Check on Existing Trees	**Yes**		
b. Property Boundary	**Yes**		
c. Natural Features (100ft beyond limits of disturbance)	**Yes**		
d. Existing Topography and Proposed Grading	**Yes**		
e. Soil Types	**Yes**		
f. Significant Trees	**Yes**		
g. Groupings of Trees	**Yes**		
h. Table Inventory List (species, size, health, priority)	**Yes**		
i. All Existing and Proposed Utilities	**Yes**		
j. All Existing and Proposed Utility Easements and ROW's	**Yes**		
k. All Streams (with approximate center line)	**Yes**		
l. Floodplains and floodways	**Yes**		
m. Existing Street, Sidewalk or Bike Path ROW	**Yes**		
n. Submitted Site Analysis Plan (if required)	**Yes**		
o. Shows ALL Proposed Site Improvements	**Yes**		
p. Delineates trees/canopy to be preserved and removed	**Yes**		
Tree Protection Methods			
a. Tree Protection Fencing	**Yes**		
b. Limits of Root Pruning	**Yes**		
c. Traffic flow on work site	**N/A**		
d. Location of material storage	**Yes**		
e. Location of concrete wash out	**Yes**		
f. Location of construction entrance/exit	**Yes**		

6. Site Analysis Report (if required) *UDC Chapter 167.04H4*	Yes	No	N/A
a. Provide graphic examples of multiple options used to minimize removal of existing canopy	**X**		
b. Submitted Analysis Statement – Note the process, iterations, and approaches to preserve canopy.	**X**		

7. Review Status	Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved	**12-13-22** **01-13-22** **01-30-23**	**02-14-23** **03-01-23**	**03-13-23**
Approved			
Tabled			
Denied			

Comments

1. Address items above marked “No” and all Redlines provided.

CITY OF FAYETTEVILLE ARKANSAS

Planning Commission Memo

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Melissa Evans, Urban Forester

MEETING DATE: March 13, 2023

SUBJECT: **LSD-2022-0041: Variance (112 Aronson):** Submitted by ESI for property located at N. Highway 112. The property is zoned C-2, THOROUGHFARE COMMERCIAL and UT, URBAN THOROUGHFARE and contains approximately 31.20 acres. The request is for a variance to the Site Development and Parking Lot Landscape Standards requirement for Tree Islands.

RECOMMENDATION:
Urban Forestry Staff recommends approval of the variance to LSD-2022-0041 which would allow the property owner to not have a tree island in the middle of the southern parking bay for the Drive-In parking area.

Per Chapter 177.04(C) Interior Landscaping Requirements, a narrow tree lawn or tree islands must be placed for parking lot tree plantings. A narrow tree lawn is in place for the Drive-In parking area north spaces in lieu of tree islands. A variance from Planning Commission is requested for the south parking lot row north of the pond by the drive-in screen, since the only exemptions for parking lot trees is areas for vehicle sales, lease or rental per Ch. 177.

Urban Forestry supports the variance request from the applicant since it is understandable that a tree in the middle of the southern Drive-In parking row would impede the view of the movie screen, and an extra parking tree is proposed in the narrow tree lawn north of the Drive-In parking spaces. The overall number of parking lot trees being provided is not being decreased with this proposal.

CITY OF FAYETTEVILLE ARKANSAS

TO: Planning Division

FROM: Zach Foster, Parks Planning

DATE: January 27, 2023

SUBJECT: Parks & Recreation Technical Plat Review Comments

****

PRAB Meeting Date:	August 1, 2022
Project Title:	The Aronson (AKA Hwy 112 Development)
Project Number:	LSD-2022-0041
Project Location:	3552 HWY 112
Plat Page:	209
Park Quadrant:	NW
Billing Name & Address:	CL Partners LLC, 124 W Capitol Ave, Little Rock, AR 72201

☐ **Land Dedication** ☒ **Fee-in-Lieu** ☐ **Combination**

LAND DEDICATION

								TOTAL Acres
Single Family:	____	units	x	0.023	acres per unit =	0.00	acres	0.0
Multi Family:	____	units	x	0.020	acres per unit =	0.00	acres	

FEE-IN-LIEU

							TOTAL Fees
Single Family:	122	units	x	$1,089	per unit =	$132,858	$218,538
Multi Family:	90	units	x	$952	per unit =	$85,680	

SUMMARY:

- Project proposes **122** SF units and **90** MF units.
  - Single Family = 24 detached units and 98 duplex units
  - Multi-Family = 27 triplex units and 63 apartment units (which is 21 units per apt bldg.)
- The final amount of fee-in-lieu and/or land dedication needed to satisfy Parkland Dedication requirements will be determined after Planning Commission's approval of this project.
- Current fee-in-lieu and/or land dedication rates will be applied regardless of when project was approved by PRAB.
- Prior to final receipt by the city, all fees must be paid and any deeds for parkland dedication property must be:

- Approved by the City's Land Agent in the Engineering Division.
- Recorded at the Washington County Courthouse.

- Each additional housing unit that is constructed in Fayetteville places an increased demand on the Parks and Recreation system. The money collected as part of this project will be used to fund future park acquisitions and improvements for this park quadrant.

OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE

Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Jodi Batker
Paralegal

TO: **Planning Commission**

CC: **Jessie Masters**, Development Review Manager

FROM: **Blake Pennington**, Assistant City Attorney

DATE: **March 14, 2023**

RE: **Cross-Connectivity**

Often the Planning Commission considers large scale developments with a staff recommendation requiring cross-connectivity to other adjacent properties. Planning staff have long considered this a requirement rather than a goal of the Unified Development Code.

A plain reading of § 166.25(D)(2) of the *Unified Development Code* provision reveals that cross access is not something that has been required by the City Council. That subsection says, "shared drives and cross access between properties shall be **encouraged** to adjacent developed and undeveloped properties." It does not say cross access "may be required" or "shall be required."

Even though the developer of the Aronson 112 project has not appealed the staff interpretation of this provision, the Planning Commission can make its decision independently. I encourage you to not be overly strict in your application of this provision.

With respect to the parcel to the east of the Aronson development, the parcel's landlocked status appears to be a self-imposed condition. This parcel, which has a tree preservation easement on the south end, as well as the car lot to the immediate south of that are owned by the same company. Both parcels were also owned by the same owner at the time the tree preservation easement was created in 2004, which cut off the landlocked parcel's access to Highway 112 through the car lot parcel.

Arkansas law provides a landlocked property owner with options to gain access to a public street. Depending on prior ownership of the property, the current owner may be able to seek an access easement, whether by necessity or implied reservation. If those are not options, the property owner could seek the establishment of a road through the county court pursuant to Ark. Code Ann. § 27-66-401.

ENGINEERING SERVICES INC.
1207 S. Old Missouri Rd. • P.O. Box 282 • Springdale, Arkansas 72765-0282 Ph: 479-751-8733 • Fax: 479-751-8746

January 4, 2023

City of Fayetteville
125 W. Mountain Street
Fayetteville, AR 72701

RE: Overall Narrative
The Aronson Subdivision
Fayetteville, AR

To whom it may concern,

Please let this letter serve as a narrative to accompany the complete submittal for The Aronson Subdivision. The proposed subdivision is located along Highway 112, just north of the intersection of W Truckers Drive and N Highway 112. It is Washington County Parcel Numbers 765-15811-000, 765-15812-000, 765-15819-000, 765-15816-000, 765-15815-000, 765-15813-000. All six of these properties are owned by the same entity. These properties are currently zoned C-2 and UT, and no change in zoning is requested. There are 3 apartment buildings, 1 management building, and a mix of multifamily and single family units, totaling up to 200 residential units, accompanied by 3 commercial buildings, and one retention pond area.

Pre-Application Meeting

A pre-application meeting was held with Fayetteville Planning, Engineering, and Urban Forestry. All discussion at the meeting has been utilized in the design of the plans.

Parks and Recreation Advisory Board Meeting

Fee in lieu was requested and approved by the Fayetteville Parks and Recreation Advisory Board.

Utilities

This site has access to public water and sewer. The City is relocating the existing 6” water main to a 12” water main on the east side of the new Highway 112, and the 8” sewer will also be relocated with the project to improve Highway 112.

Traffic

It is not anticipated that this development will cause any traffic issues as ArDOT is improving Highway 112 to have additional lanes and roundabouts.

Build to Zone

There is a 10-25' build to zone that is required along Hwy-112. That build to zone requirement cannot be met as ARDOT's improvements require additional Right-of-Way to be dedicated and there is a proposed 33' utility easement along Hwy-112. However, the buildings have been placed as close to the 33' proposed utility easement as possible to attempt to meet the 10-25' build to zone.

Cross Access

A cross access variance has been requested as there are protected waters to the east and south of the development. Cross access would disturb the protected waters and the streamside protection. As for the north side of our development, the adjacent property is a developed warehouse that would not require a connection to a residential area.

This submittal includes the following items:

- No submittal fee is included. Once the invoice is generated, this will be paid by the developer.
- Preliminary Plat Plans
- Preliminary Drainage Report
- Warranty Deed
- Legal Description
- Consent of Owner Form

Please let me know if I can answer any questions.

Jason Appel, P.E.
Secretary/Treasurer

ENGINEERING SERVICES INC.
1207 S. Old Missouri Rd. • P.O. Box 282 • Springdale, Arkansas 72765-0282 Ph: 479-751-8733 • Fax: 479-751-8746

February 22, 2023

City of Fayetteville
125 W. Mountain Street
Fayetteville, AR 72701

RE: Variance Request
The Aronson Subdivision
Fayetteville, AR

To whom it may concern,

Please let this letter serve as a request for the following variances and exemption to accompany the complete submittal for The Aronson Subdivision.

Build to Zone
There is a 10-25' build to zone that is required along Hwy-112. That build to zone requirement cannot be met as ARDOT's improvements require additional Right-of-Way to be dedicated and there is a proposed 33' utility easement along Hwy-112. However, the buildings have been placed as close to the 33' proposed utility easement as possible to attempt to meet the 10-25' build to zone.

Cross Access
A cross access variance has been requested as there are protected waters to the east and south of the development. Cross access would disturb the protected waters and the streamside protection. As for the north side of our development, the adjacent property is a developed warehouse that would not require a connection to a residential area.

Parking Request
At the south side of the proposed theatre where the outdoor screening service is located, a variance is requested to allow larger spaces for service between vehicles and to be exempt from the number of parking spaces allowed/required for the indoor theater. Furthermore, a landscape variance is also requested for the tree island required along the south row of the outdoor screening parking area. Parking trees would block line of sight and the ability for the outdoor screening area to function properly.

Please let me know if I can answer any questions.

Preston Locher
Project Engineer

ENGINEERING SERVICES INC.
1207 S. Old Missouri Rd. • P.O. Box 282 • Springdale, Arkansas 72765-0282 Ph: 479-751-8733 • Fax: 479-751-8746

March 22, 2023

City of Fayetteville
125 W. Mountain Street
Fayetteville, AR 72701

RE: Variance Request
The Aronson Subdivision
Fayetteville, AR

To whom it may concern,

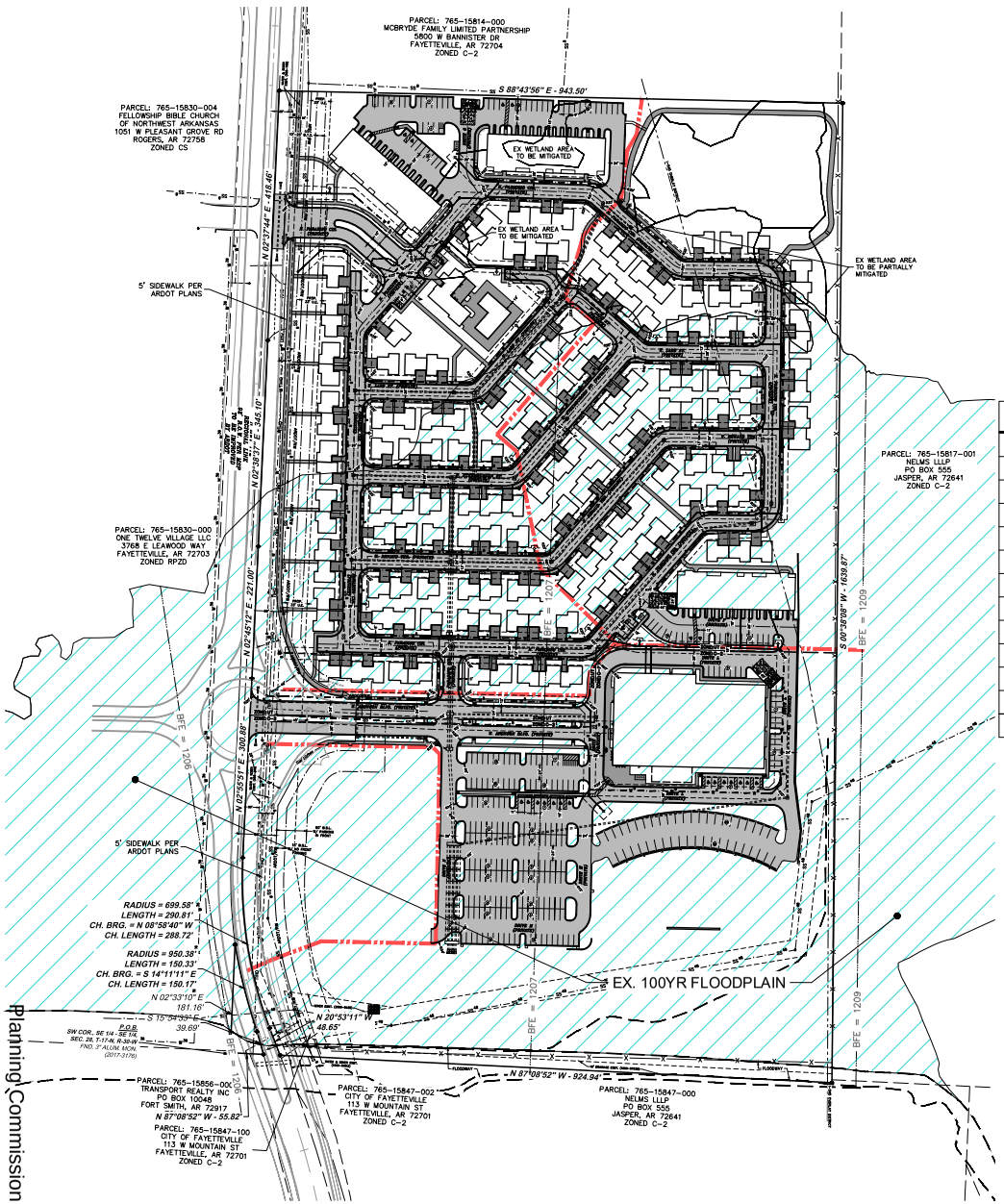
Please let this letter serve as a variance request to accompany the complete submittal for The Aronson Subdivision.

No Adverse Impact

In our flood study of clabber creek, 4 comparison points were analyzed to determine the impact of this development on the water surface elevation and velocity of clabber creek. In that study, 3 of the 4 comparison points showed no adverse impact due to the increase flood storage volume provided by this project. However, one comparison point just upstream of the 112 culvert crossing did show a decrease in velocity but a slight increase in water surface elevation of 1.56” (one point five six inches) for the 100 storm event. This slight water surface elevation increase will only be a temporary increase as future development of Highway 112 consists of culvert improvements that will drastically reduce the water surface elevation across the entire site by providing better flow through the culverts passing under 112 and reducing the effects of headwater that affect the flow of clabber creek across the entire development. Furthermore, we do not see an adverse impact of any adjacent property owners as the increase in water surface elevation is only 1.56” (one point five six inches), occurs approximately 300 feet downstream of the closest building corner of the adjacent property owner to the south, and the water surface elevation at this comparison point is 5.33’ (five point three three feet) lower than the finished floor elevation of the closest building. Therefore, we are seeking a variance from the adverse impact just for this one comparison point knowing that we will not seek any changes that raises the water surface elevation higher then the 1.56” (one point five six inches) increase we show currently, and that the remainder of the site and the comparison points will continue to show no adverse impacts. We ask for this knowing that future Highway 112 improvements will improve the flow crossing Highway 112 which will significantly reduce the headwater of clabber creek for the culvert crossing and drastically reduce the 100 year water surface elevation across the entire site.

Please let me know if I can answer any questions.

Preston Locher
Project Engineer



UT ZONED BUILDING FRONTAGE				
STREET	LENGTH OF FRONTAGE	EXISTING EASEMENTS PERPENDICULAR TO STREET	SIDE SETBACKS	USEABLE FRONTAGE
HWY 112	1046'	0'	N/A	1046'
		REQUIRED BUILDING FRONTAGE (50% OF USABLE FRONTAGE)		523'
		PROVIDED BUILDING FRONTAGE		578'
		BUILDING FRONTAGE WITHIN B.T.Z.		0'*

* THE 848' OF FRONTAGE ALONG HWY-112. IS UNABLE TO BE LOCATED IN THE B.T.Z. DUE TO A 33' PROPOSED EASEMENT PREVENTING THE BUILDING FROM BEING WITHIN THE 25' B.T.Z.

GRID N

GRAPHIC REPRESENTATION ONLY

SCALE 1" = 100'

0 50' 100' 200'

LEGEND

PROPERTY LINE
ADJACENT OWNER
R/W RIGHT-OF-WAY
SETBACK LINE
PHYSICAL CENTERLINE OF ROAD
OHU OVERHEAD UTILITIES
W WATER LINE
SS SANITARY SEWER LINE
CURB AND GUTTER

P.O.B. POINT OF BEGINNING
FOUND MONUMENT (AS NOTED)
SEWER MANHOLE (SMH)
GAS METER (GM)
POWER POLE (PP)
LIGHT POLE (LP)
FIRE HYDRANT (FH)
WATER VALVE (WV)
CLEANOUT (CO)
SIGN (AS NOTED)
DRIVE IN SPEAKER
2 INCH PIPE STICKING OUT OF GROUND

OWNER: CL PARTNERS LLC; D BRIGGS 112 EXCHANGE LLC
124 W CAPITOL AVE.
LITTLE ROCK AR. 72201

DEVELOPER/BUYER: CL DEVCO, LLC.

ENGINEER: ENGINEERING SERVICES, INC.
1207 S. OLD MISSOURI ROAD
P.O. BOX 283
SPRINGDALE, AR 72765

CITY ZONING: C-2 (THOROUGHFARE COMMERCIAL)
AND UT (URBAN THOROUGHFARE)

SETBACKS: UT: FRONT – BUILD-TO ZONE LOCATED BETWEEN 10' AND A LINE 25' FROM THE FRONT PROPERTY LINE
SIDE AND REAR – 0'
SIDE OR REAR, WHEN CONTIGUOUS TO A SINGLE-FAMILY RESIDENTIAL DISTRICT– 15'
C-2: FRONT – 15'
FRONT IF PARKING BETWEEN ROW AND BUILDING – 50'
SIDE: NONE
SIDE WHEN CONTIGUOUS TO A RESIDENTIAL DISTRICT – 15'
REAR: 20'

PROPOSED UNITS: 21 UNIT PER APARTMENT, 63 TOTAL APARTMENT UNITS
TOTAL UNITS: 214

STREET NAME	ROW (FT)	BACK OF CURB TO BACK OF CURB (FT)	GREEN SPACE/SIDE (FT)	SIDEWALK/SIDE (FT)	CL TO ROW (FT)
EXISTING HWY-112 (PUBLIC)	55	22 (EOA)	N/A	N/A	27.5
PROPOSED HWY-112 (PUBLIC)	92	67 *	5 *	5 *	66 *
W. ARONSON BLVD. (PRIVATE)	N/A	VARIES	5' NORTH SIDE 9.5' SOUTH SIDE	5	N/A
N. PARADISO CIR. (PRIVATE)	N/A	27	N/A	5	N/A
W. RENAUD TER. (PRIVATE)	N/A	27	N/A	5	N/A
W. STEENBURGEN ST. (PRIVATE)	N/A	27	N/A	5	N/A
W. LADD ST. (PRIVATE)	N/A	27	N/A	5	N/A
N. PARADISO SQ. (PRIVATE)	N/A	21	5	5	N/A
DRIVE F (PRIVATE)	N/A	27	N/A	N/A	N/A
DRIVE G (PRIVATE)	N/A	27	N/A	5	N/A
DRIVE L (PRIVATE)	N/A	27	N/A	5	N/A
DRIVE M (PRIVATE)	N/A	N/A	N/A	N/A	N/A
DRIVE N (PRIVATE)	N/A	N/A	N/A	N/A	N/A

* FUTURE ROW, BOC TO BOC GREENSPACE AND SIDEWALK PER ARDOT PLANS.

REQUIRED PARKING SPACES:

MOVIE THEATER: 1 PARKING SPACE PER 4 SEATS
844 SEATS / 4 = 211 SPACES REQUIRED
211 SPACES PROVIDED
7 ADA SPACES REQUIRED, 14 PROVIDED
1 MOTOR CYCLE SPACE PER 25 SPACES
211 SPACES / 25 = 8 MOTORCYCLE SPACES REQUIRED, 9 PROVIDED
1 BICYCLE RACK PER 20 SPACES
211 SPACES / 20 = 10 BICYCLE RACK PROVIDED

SOUTHERN APARTMENT BUILDING: 1 PER BEDROOM
40 BEDROOMS = 40 SPACES REQUIRED
14 GARAGE SPACES + 26 SPACES = 40 SPACES PROVIDED
2 ADA SPACES REQUIRED, 2 PROVIDED
1 MOTORCYCLE SPACE PER 25 SPACES
40 SPACES / 25 = 2 MOTORCYCLE SPACES REQUIRED, 2 PROVIDED
1 BICYCLE SPOT PER 30 DWELLING UNITS
21 DWELLING = 2 BICYCLE RACK PROVIDED

NORTHERN APARTMENT BUILDINGS: 1 PER BEDROOM
80 BEDROOMS = 80 SPACES REQUIRED
28 GARAGE SPACES + 52 SPACES = 80 SPACES PROVIDED
4 ADA SPACES REQUIRED, 4 PROVIDED
1 MOTORCYCLE SPACE PER 25 SPACES
80 SPACES / 25 = 3 MOTORCYCLE SPACES REQUIRED, 3 PROVIDED
1 BICYCLE RACK PER 30 DWELLING UNITS
42 DWELLINGS = 4 BICYCLE RACK PROVIDED

PRIVATE CLUBHOUSE: 1 PER 500 SQ.FT.
3,063 SQ.FT. / 500 =6 SPACES REQUIRED
7 SPOTS PROVIDED
1 ADA SPACE REQUIRED, 1 PROVIDED
1 MOTORCYCLE SPACE PER 25 SPACES
7 SPACES / 25 = 1 MOTORCYCLE SPACE REQUIRED, 3 PROVIDED

DUPLEX/TRIPLEX: 2 PER UNIT.
151 UNITS * 2 = 302 SPACES REQUIRED
29 COVERED SPOTS PROVIDED
273 UNCOVERED DRIVEWAYS SPOTS PROVIDED
302 TOTAL SPACES PROVIDED

SURVEY DESCRIPTION:

PART OF THE EAST HALF (E 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION TWENTY-EIGHT (28), TOWNSHIP SEVENTEEN (17) NORTH, RANGE THIRTY (30) WEST OF THE FIFTH PRINCIPAL MERIDIAN, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID E 1/2 OF THE SE 1/4, SAID POINT BEING A FOUND 3 INCH ALUMINUM MONUMENT; THENCE ALONG THE SOUTH LINE OF SAID E 1/2 OF THE SE 1/4, S87°08'52" E A DISTANCE OF 83.50 FEET TO THE POINT OF BEGINNING, SAID POINT BEING A SET IRON PIN WITH CAP "PLS 1156"; THENCE LEAVING SAID SOUTH LINE, N20°53'11" W A DISTANCE OF 48.65 FEET; THENCE ALONG A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 699.58 FEET, AN ARC LENGTH OF 290.81 FEET, AND A CHORD BEARING AND DISTANCE OF N08°58'40" W – 288.72 FEET; THENCE N02°55'51" E A DISTANCE OF 300.88 FEET; THENCE N02°45'12" E A DISTANCE OF 221.00 FEET; THENCE N02°36'12" E A DISTANCE OF 345.10 FEET; THENCE N02°37'44" E A DISTANCE OF 418.46 FEET TO A SET IRON PIN WITH CAP "PLS 1156"; THENCE S88°43'56" E A DISTANCE OF 943.50 FEET TO A SET IRON PIN WITH CAP "PLS 1156"; THENCE S00°36'08" W A DISTANCE OF 1639.87 FEET TO A SET IRON PIN WITH CAP "PLS 1156" ON THE SOUTH LINE OF SAID E 1/2 OF THE SE 1/4; THENCE ALONG SAID SOUTH LINE, N87°08'52" W A DISTANCE OF 924.94 FEET TO THE POINT OF BEGINNING, CONTAINING 36.11 ACRES (1,572,946 SQUARE FEET), MORE OR LESS, AND SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS OR RESTRICTIVE COVENANTS OF RECORD AND FACT.

AND

A REMAINDER TRACT, BEING PART OF THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION TWENTY-EIGHT (28), TOWNSHIP SEVENTEEN (17) NORTH, RANGE THIRTY (30) WEST OF THE FIFTH PRINCIPAL MERIDIAN, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID E 1/2 OF THE SE 1/4, SAID POINT BEING A FOUND 3 INCH ALUMINUM MONUMENT; THENCE ALONG THE WEST LINE OF SAID E 1/2 OF THE SE 1/4, N02°33'10" E A DISTANCE OF 181.16 FEET TO A SET IRON PIN WITH CAP "PLS 1156"; THENCE LEAVING SAID WEST LINE, ALONG A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 950.38 FEET, AN ARC LENGTH OF 150.33 FEET, AND A CHORD BEARING AND DISTANCE OF S14°11'11" E – 150.17 FEET; THENCE S15°54'33" E A DISTANCE OF 39.69 FEET TO A SET IRON PIN WITH CAP "PLS 1156" ON THE SOUTH LINE OF SAID E 1/2 OF THE SE 1/4; THENCE ALONG SAID SOUTH LINE, N87°08'52" W A DISTANCE OF 55.82 FEET TO THE POINT OF BEGINNING, CONTAINING 0.11 ACRES (4,669 SQUARE FEET), MORE OR LESS, AND SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS OR RESTRICTIVE COVENANTS OF RECORD AND FACT.

FEMA FLOOD PLAIN ZONE:

THIS PROPERTY IS WITHIN THE FLOOD PLAIN ZONE "AE", DESIGNATED AS AN AREA WHERE BASE FLOOD ELEVATIONS HAVE BEEN DETERMINED. THE ANNUAL CHANCE FLOOD (100-YEAR FLOOD), ALSO KNOWN AS THE BASE FLOOD, IS THE FLOOD THAT HAS A 1% CHANCE OF BEING EQUALED OR EXCEEDED IN ANY GIVEN YEAR. AS SHOWN ON THE F.I.R.M. MAP #05143C0210F, PANEL 210 OF 575, WASHINGTON COUNTY, ARKANSAS & INCORPORATED AREAS. MAP REVISED: MAY 16, 2008.

THIS PROPERTY IS WITHIN THE FLOOD PLAIN ZONE "X", (GRAY SHADED) DESIGNATED AS AN AREA OF 0.2% ANNUAL CHANCE FLOOD; AREAS OF 1% ANNUAL CHANCE FLOOD WITH AVERAGE DEPTHS OF LESS THAN 1 FOOT OR WITH DRAINAGE AREAS LESS THAN 1 SQUARE MILE; AND AREAS PROTECTED BY LEVEES FROM 1% ANNUAL CHANCE FLOOD. AS SHOWN ON THE F.I.R.M. MAP # 05143C0210F, PANEL 210 OF 575, WASHINGTON COUNTY, ARKANSAS & INCORPORATED AREAS. MAP REVISED: MAY 16, 2008.

THIS PROPERTY IS WITHIN THE FLOOD PLAIN ZONE "X", (NO SHADING) DESIGNATED AS AN AREA DETERMINED TO BE OUTSIDE OF 0.2% ANNUAL CHANCE FLOODPLAIN, AS SHOWN ON THE F.I.R.M. MAP # 05143C0210F, PANEL 210 OF 575, WASHINGTON COUNTY, ARKANSAS & INCORPORATED AREAS. MAP REVISED: MAY 16, 2008.

PLAT PAGE: 209

REVISION	DATE	DESCRIPTION

OVERALL LAYOUT

THE ARONSON

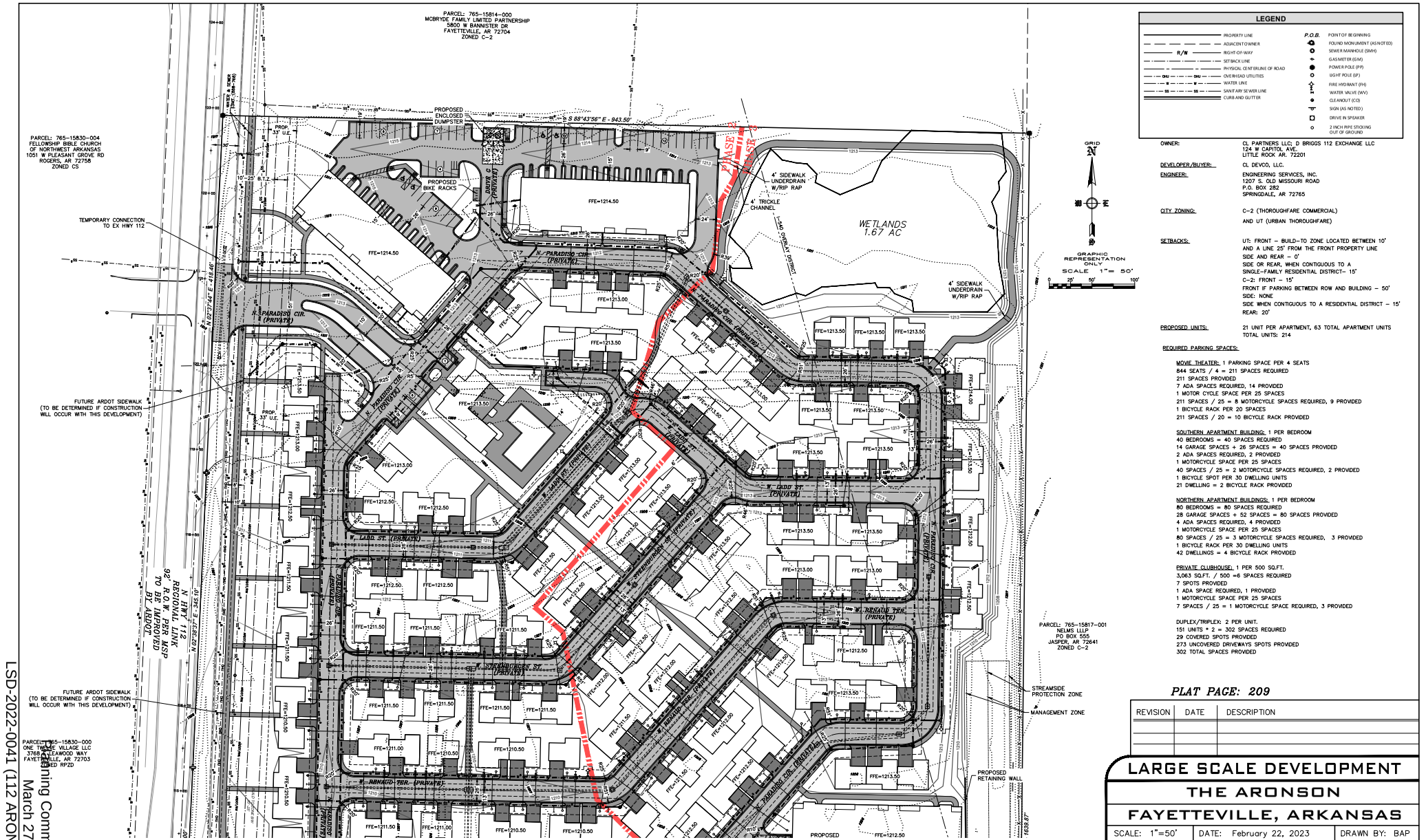
FAYETTEVILLE, ARKANSAS

SCALE: 1"=100' | DATE: February 22, 2023 | DRAWN BY: BAP

ENGINEERING SERVICES, INCORPORATED
SPRINGDALE, ARKANSAS

© COPYRIGHT 2023, ENGINEERING SERVICES, INC. 3/22/2023 4:50 PM
J:\LSD\22044 112 Drive-In Lot\22044 - LSD.dwg

W.O.# 22944 | SHEET 3



LEGEND

PROPERTY LINE	P.O.B. POINT OF BEGINNING
ADJACENT OWNER	FOUND MONUMENT (AS NOTED)
R/W RIGHT-OF-WAY	SEWER MANHOLE (SMH)
SETBACK LINE	GAS METER (GM)
PHYSICAL CENTERLINE OF ROAD	POWER POLE (PP)
OHU OVERHEAD UTILITIES	LIGHT POLE (LP)
W WATER LINE	FIRE HYDRANT (FH)
SS SANITARY SEWER LINE	WATER VALVE (WV)
CURB AND GUTTER	CLEANOUT (CO)
	SIGN (AS NOTED)
	DRIVE IN SPEAKER
	2 INCH PIPE STICKING OUT OF GROUND

OWNER: CL PARTNERS LLC; D BRIGGS 112 EXCHANGE LLC
124 W CAPITOL AVE.
LITTLE ROCK AR. 72201

DEVELOPER/BUYER: CL DEVCO, LLC.

ENGINEER: ENGINEERING SERVICES, INC.
1207 S. OLD MISSOURI ROAD
P.O. BOX 252
SPRINGDALE, AR 72765

CITY ZONING: C-2 (THOROUGHFARE COMMERCIAL)
AND UT (URBAN THOROUGHFARE)

SETBACKS: UT: FRONT – BUILD-TO ZONE LOCATED BETWEEN 10' AND A LINE 25' FROM THE FRONT PROPERTY LINE
SIDE AND REAR – 0'
SIDE OR REAR, WHEN CONTIGUOUS TO A SINGLE-FAMILY RESIDENTIAL DISTRICT– 15'
C-2: FRONT – 15'
FRONT IF PARKING BETWEEN ROW AND BUILDING – 50'
SIDE: NONE
SIDE WHEN CONTIGUOUS TO A RESIDENTIAL DISTRICT – 15'
REAR: 20'

PROPOSED UNITS: 21 UNIT PER APARTMENT, 63 TOTAL APARTMENT UNITS
TOTAL UNITS: 214

REQUIRED PARKING SPACES:

MOVIE THEATER: 1 PARKING SPACE PER 4 SEATS
644 SEATS / 4 = 211 SPACES REQUIRED
211 SPACES PROVIDED
7 ADA SPACES REQUIRED, 14 PROVIDED
1 MOTOR CYCLE SPACE PER 25 SPACES
211 SPACES / 25 = 8 MOTORCYCLE SPACES REQUIRED, 9 PROVIDED
1 BICYCLE RACK PER 20 SPACES
211 SPACES / 20 = 10 BICYCLE RACK PROVIDED

SOUTHERN APARTMENT BUILDING: 1 PER BEDROOM
40 BEDROOMS = 40 SPACES REQUIRED
14 GARAGE SPACES + 26 SPACES = 40 SPACES PROVIDED
2 ADA SPACES REQUIRED, 2 PROVIDED
1 MOTORCYCLE SPACE PER 25 SPACES
40 SPACES / 25 = 2 MOTORCYCLE SPACES REQUIRED, 2 PROVIDED
1 BICYCLE SPOT PER 30 DWELLING UNITS
21 DWELLING = 2 BICYCLE RACK PROVIDED

NORTHERN APARTMENT BUILDINGS: 1 PER BEDROOM
80 BEDROOMS = 80 SPACES REQUIRED
28 GARAGE SPACES + 52 SPACES = 80 SPACES PROVIDED
4 ADA SPACES REQUIRED, 4 PROVIDED
1 MOTORCYCLE SPACE PER 25 SPACES
80 SPACES / 25 = 3 MOTORCYCLE SPACES REQUIRED, 3 PROVIDED
1 BICYCLE RACK PER 30 DWELLING UNITS
42 DWELLINGS = 4 BICYCLE RACK PROVIDED

PRIVATE CLUBHOUSE: 1 PER 500 SQ.FT.
3,063 SQ.FT. / 500 =6 SPACES REQUIRED
7 SPOTS PROVIDED
1 ADA SPACE REQUIRED, 1 PROVIDED
1 MOTORCYCLE SPACE PER 25 SPACES
7 SPACES / 25 = 1 MOTORCYCLE SPACE REQUIRED, 1 PROVIDED

DUPLEX/TRIPLEX: 2 PER UNIT.
151 UNITS * 2 = 302 SPACES REQUIRED
29 COVERED SPOTS PROVIDED
273 UNCOVERED DRIVEWAYS SPOTS PROVIDED
302 TOTAL SPACES PROVIDED

PLAT PAGE: 209

REVISION	DATE	DESCRIPTION

LARGE SCALE DEVELOPMENT
THE ARONSON
FAYETTEVILLE, ARKANSAS

SCALE: 1"=50' | DATE: February 22, 2023 | DRAWN BY: BAP

ENGINEERING SERVICES, INCORPORATED
SPRINGDALE, ARKANSAS

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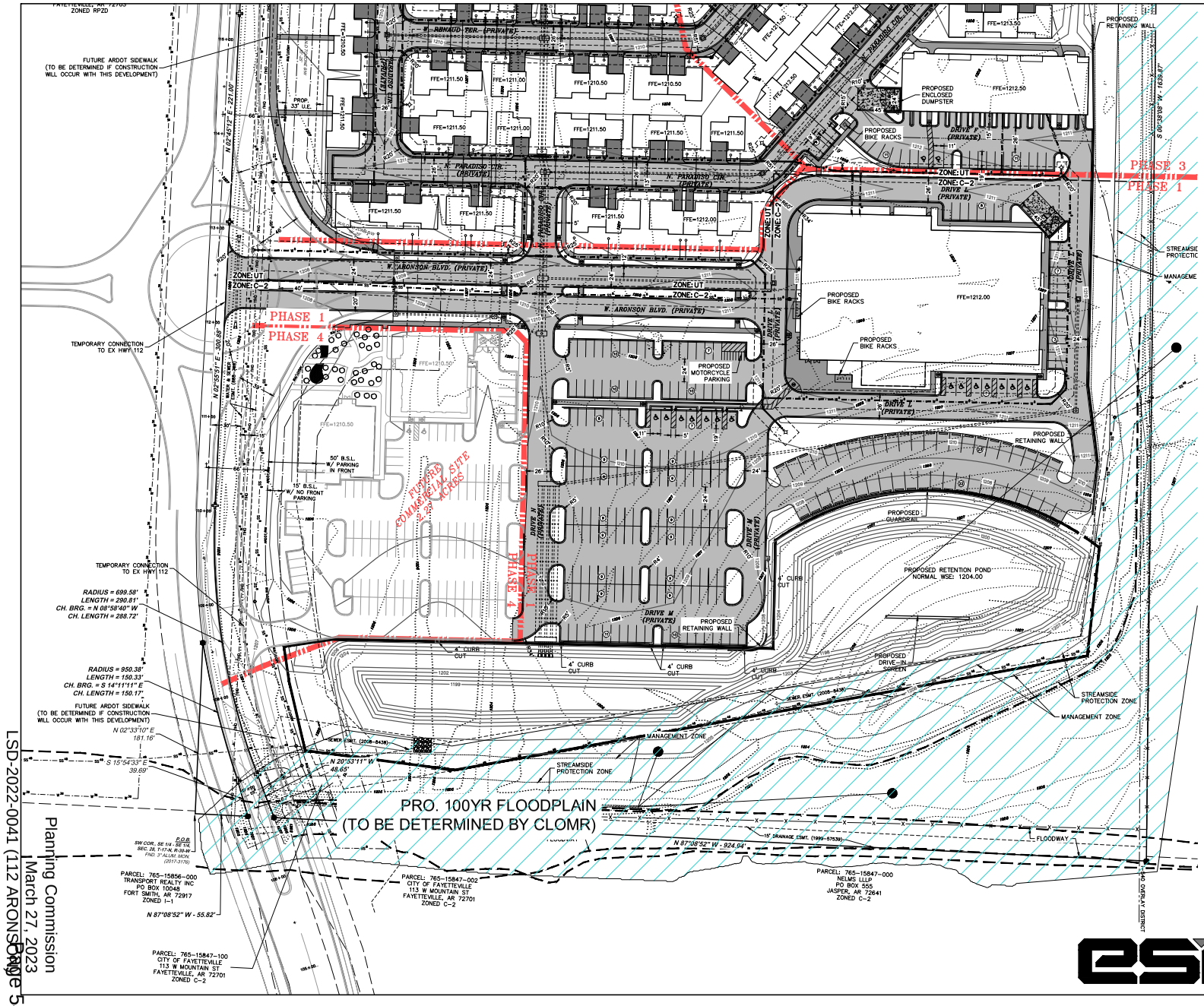
W.O.# 22944 | SHEET 4



PLAT PAGE: 209

REVISION	DATE	DESCRIPTION

LARGE SCALE DEVELOPMENT

THE ARONSON

FAYETTEVILLE, ARKANSAS

SCALE: 1"=50'	DATE: February 22, 2023	DRAWN BY: BAP

ENGINEERING SERVICES, INCORPORATED
SPRINGDALE, ARKANSAS

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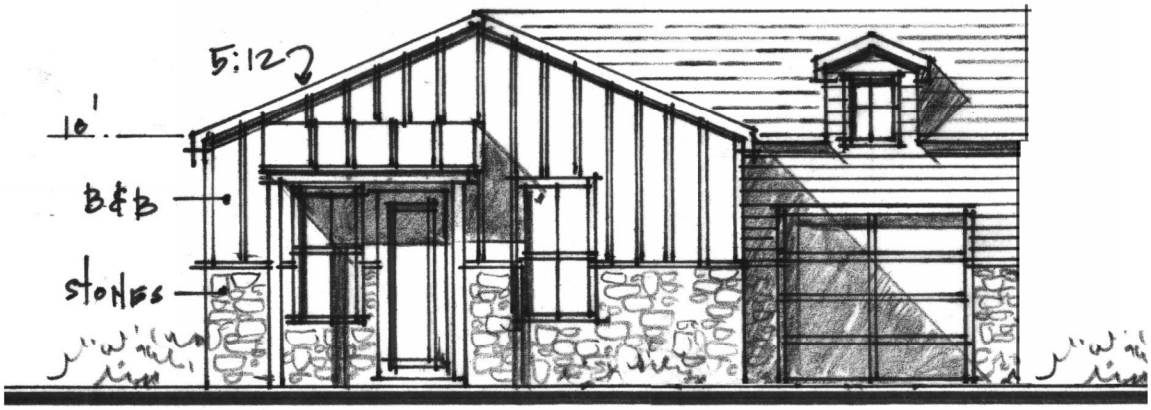
W.O.# 22944 | SHEET 5



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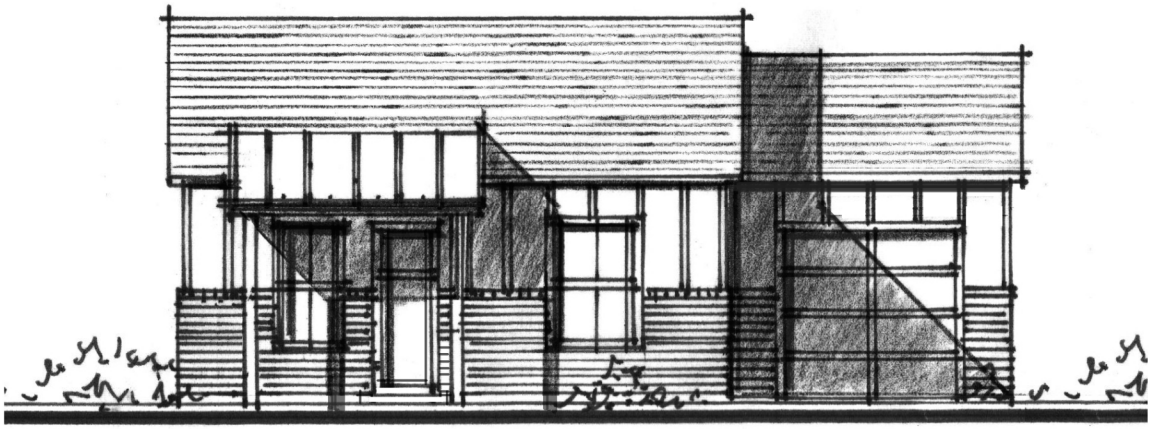
Plan 1A

1

Plan 1B



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Plan 1C

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Plan 2A

2

Plan 2 B

2

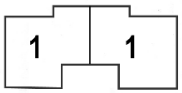
Plan 2 C

3

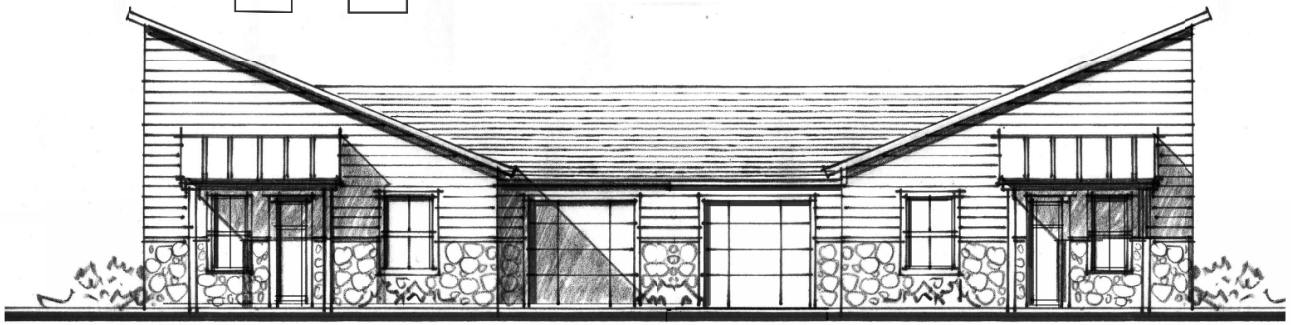
Plan 3A

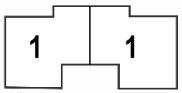
3

Plan 3B

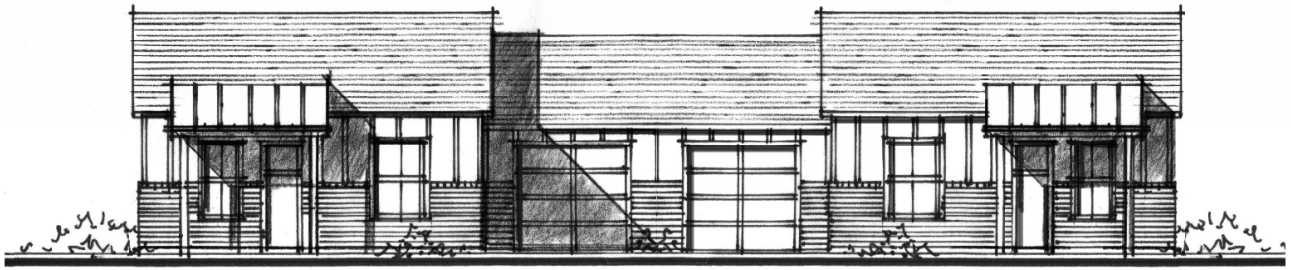


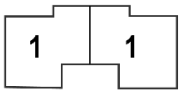
Duplex 1-1A



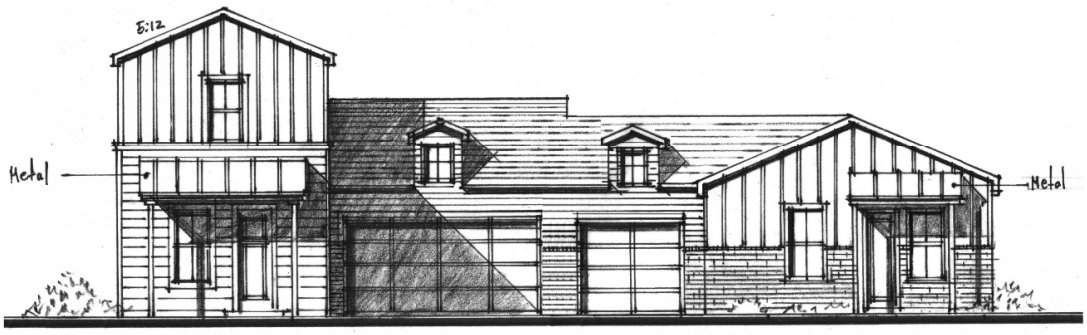


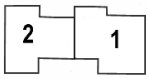
Duplex 1-1 B



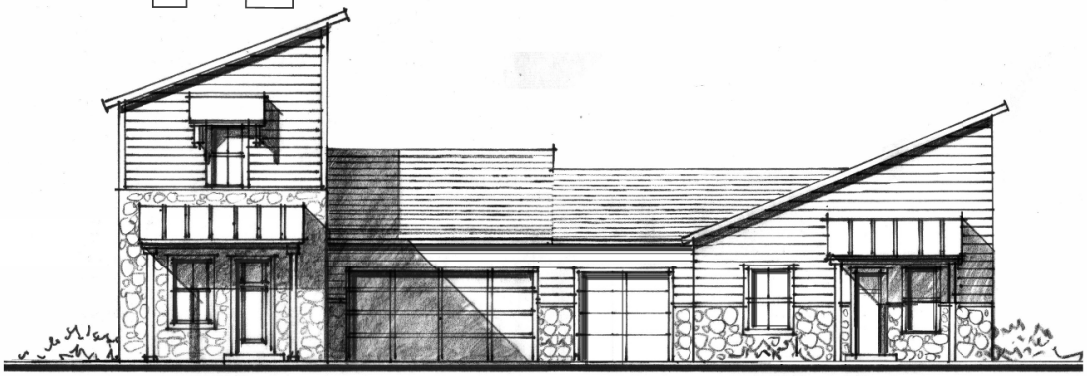


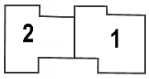
Duplex 1-1 C





Duplex 2-1 A





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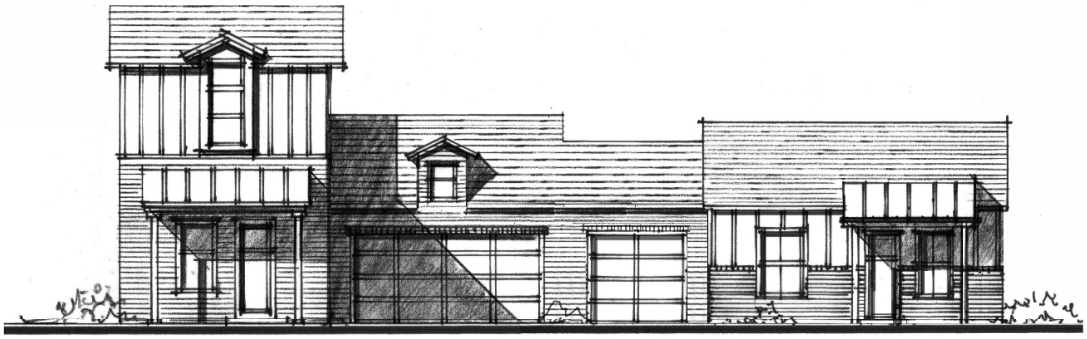
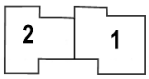
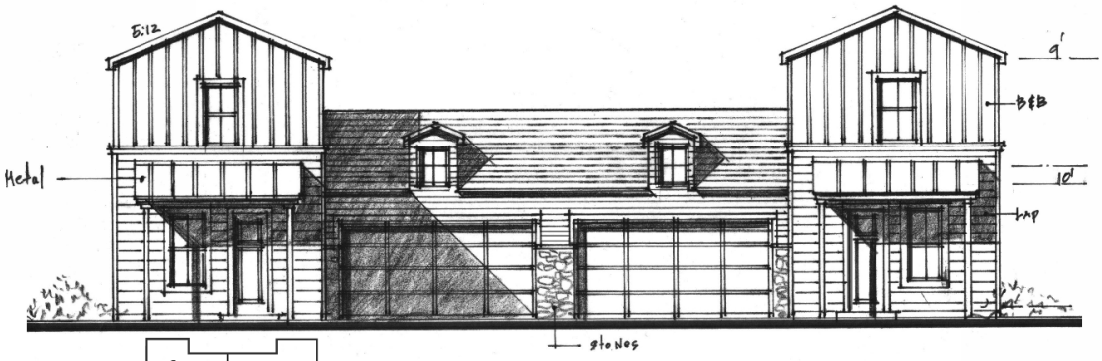
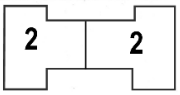


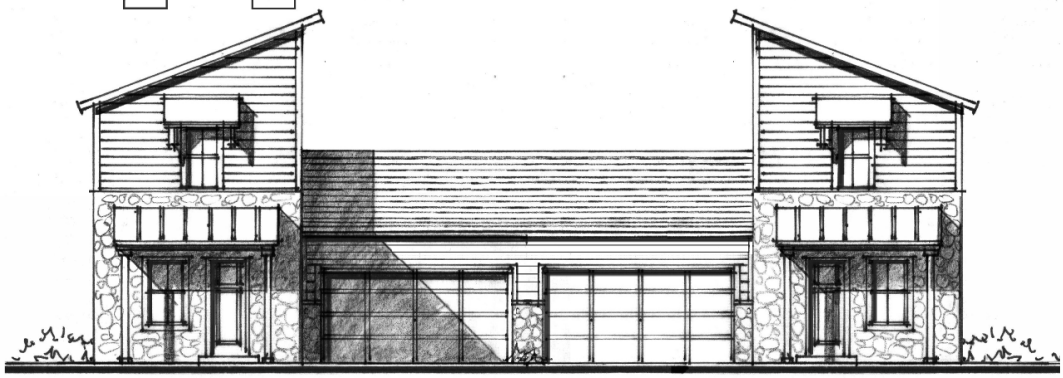


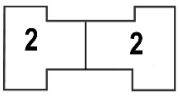
Duplex 2-1 C



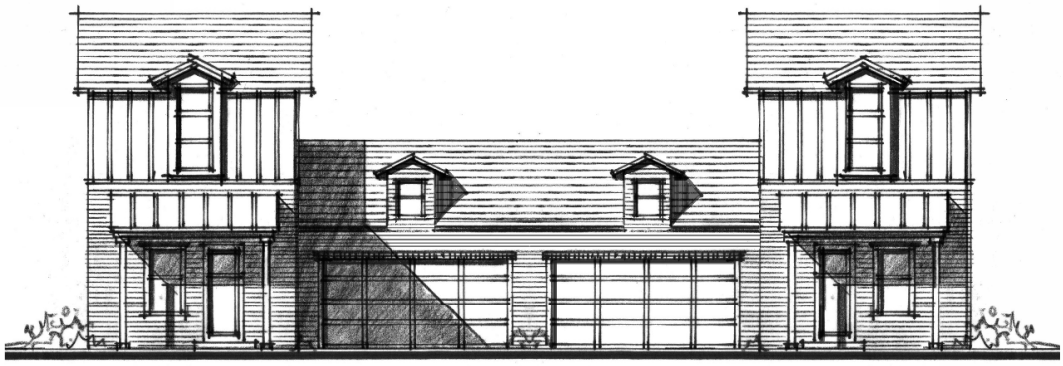


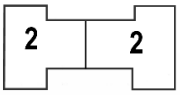
Duplex 2-2 A （Type A)





Duplex 2-2 B （Type A)





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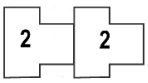
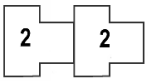


Duplex 2-2 A (Type B)



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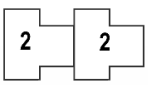
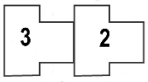
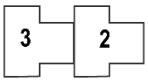


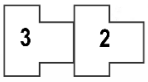
Duplex 2-2 C (Type B)



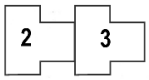
Duplex 3-2 A



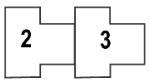
Duplex 3-2 B



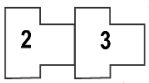
Duplex 3-2 C



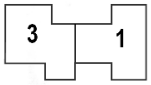
Duplex 2-3 (Type B)



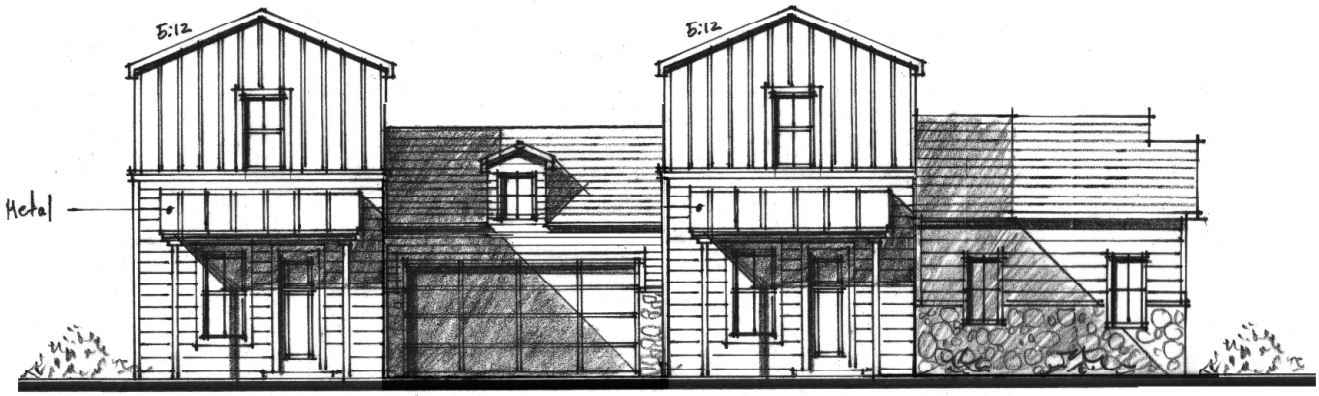
Duplex 2-3 (Type C)

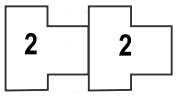


Duplex 3-2 (Type D)

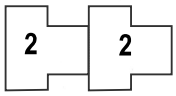


Duplex 3-1

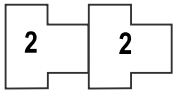




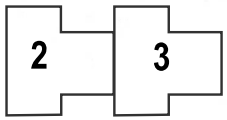
Duplex 2-2 A (Type B) Side Driveway



Duplex 2-2 B (Type B) Side Driveway



Duplex 2-2 C (Type B) Side Driveway



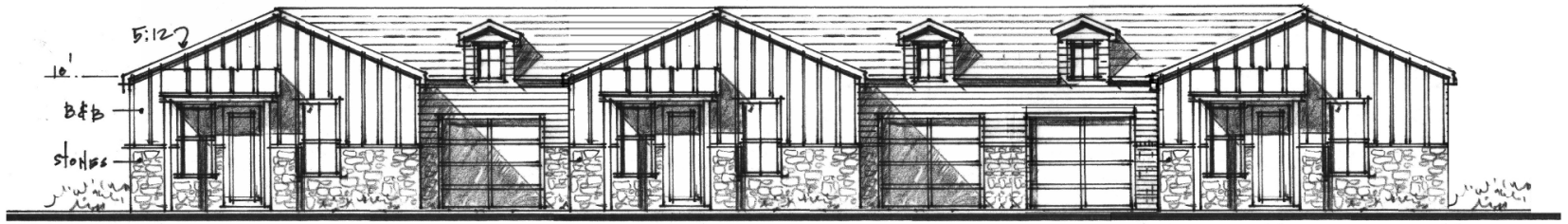
Duplex 2-3 (Type B) Side Driveway

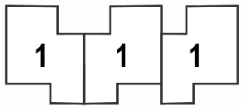
Triplex 2-2-2 A
2
2
2
Plan 2-2-2 B
2
2
2
Plan 2-2-2 C
2
2
2

Triplex 2-3-2 A
2
3
2

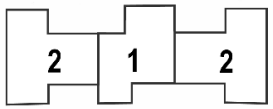
Triplex 2-3-2 B
2
3
2

Triplex 2-3-2 C
2
3
2

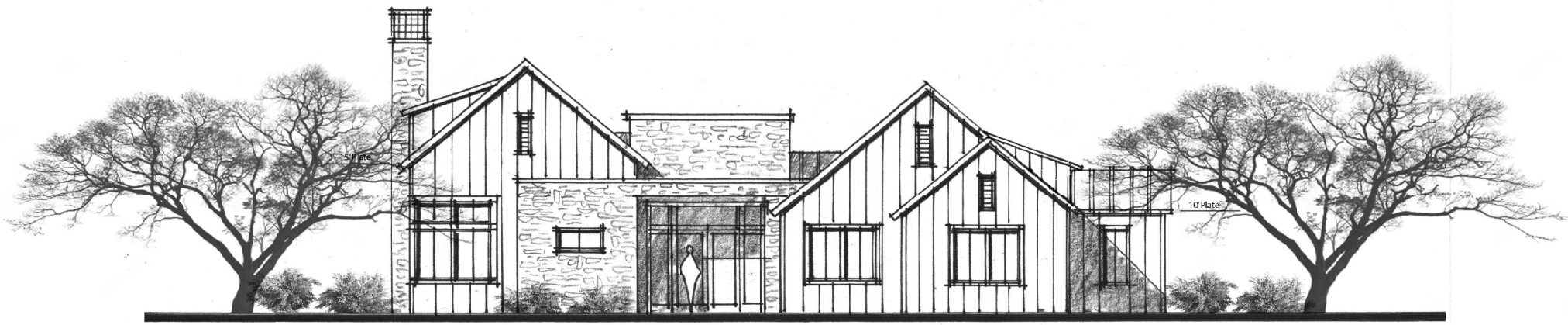




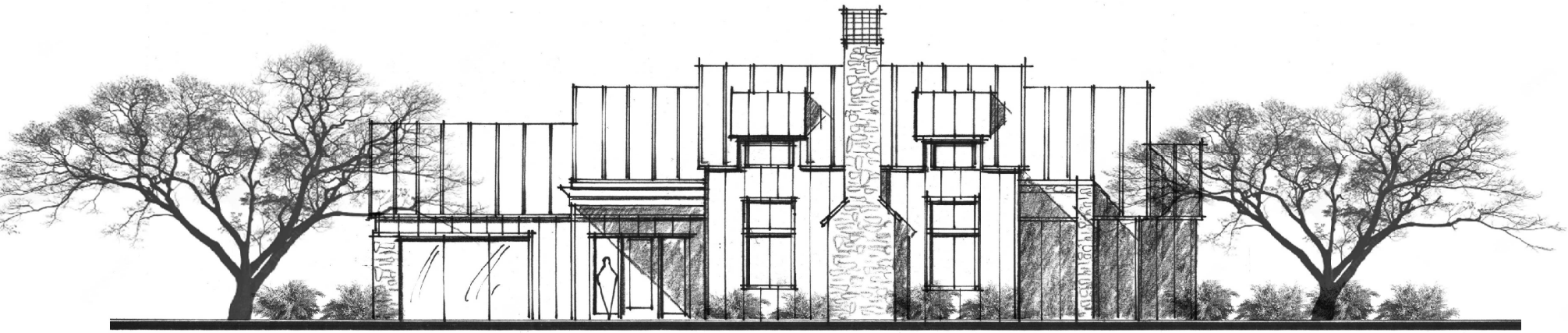
Triplex 1-1-1



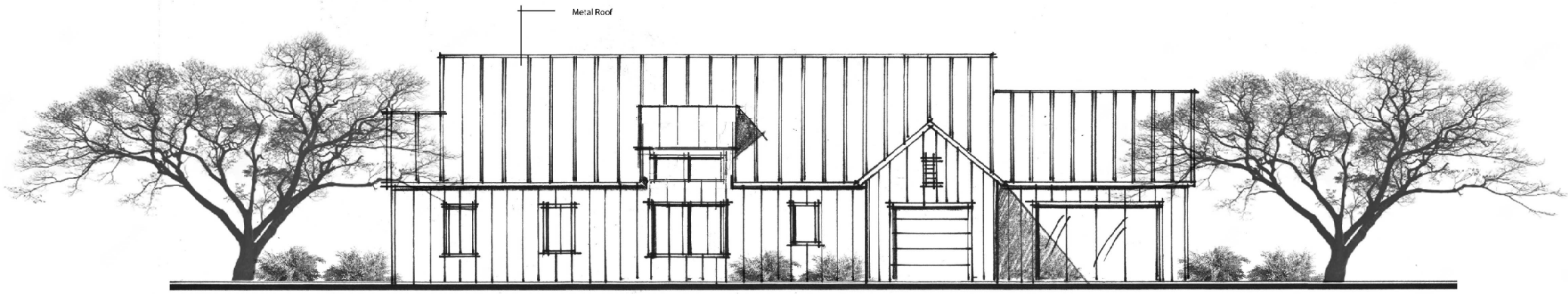
Triplex 2-1-2



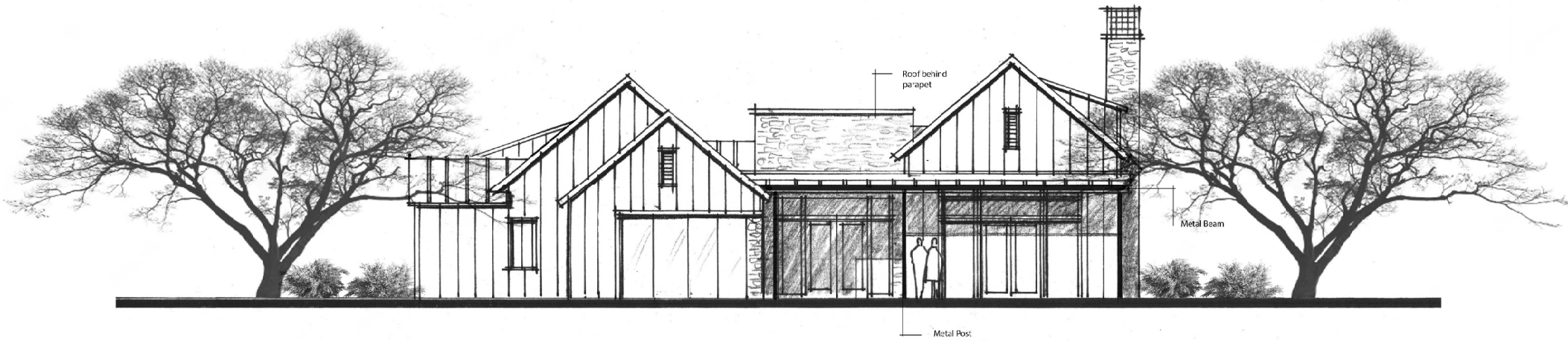
CLUBHOUSE FRONT ELEVATION



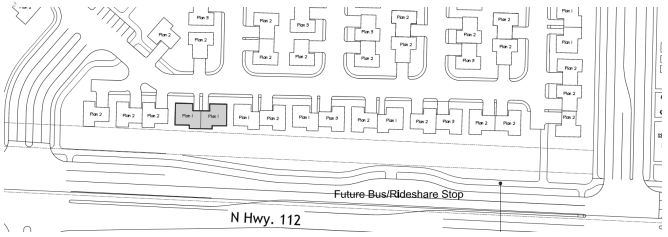
CLUBHOUSE LEFT SIDE ELEVATION



CLUBHOUSE RIGHT SIDE ELEVATION



CLUBHOUSE REAR ELEVATION



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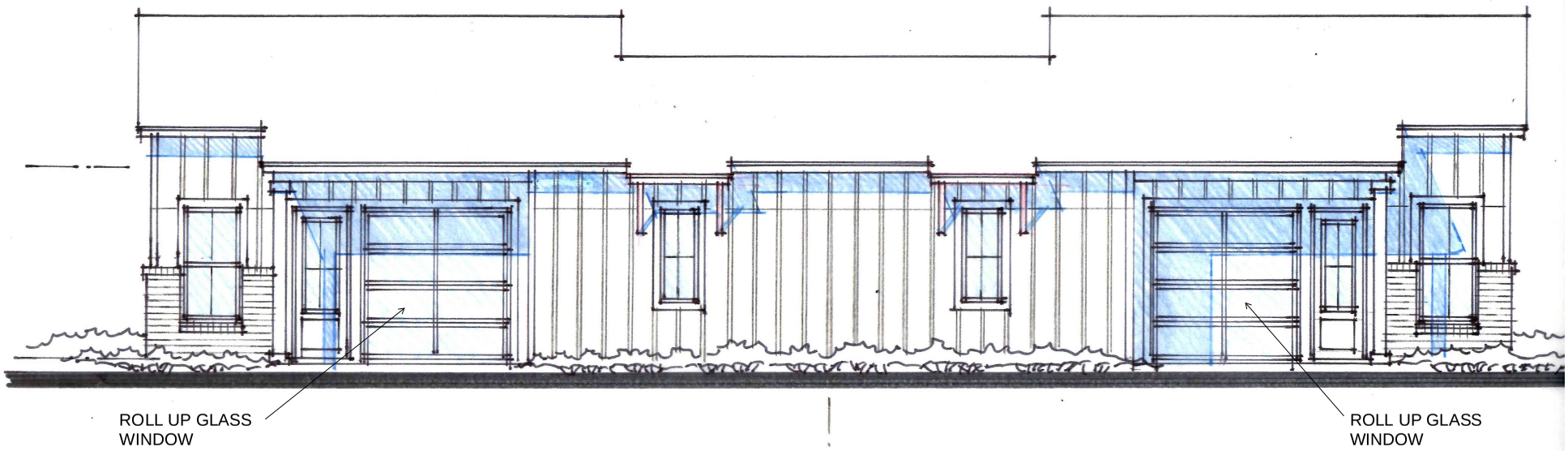

PLAN 1-1 WEST ELEVATION AT 112 RANCH ROAD

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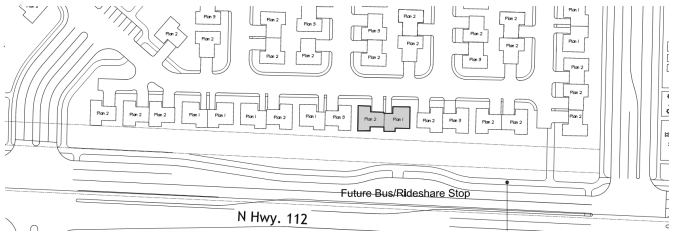

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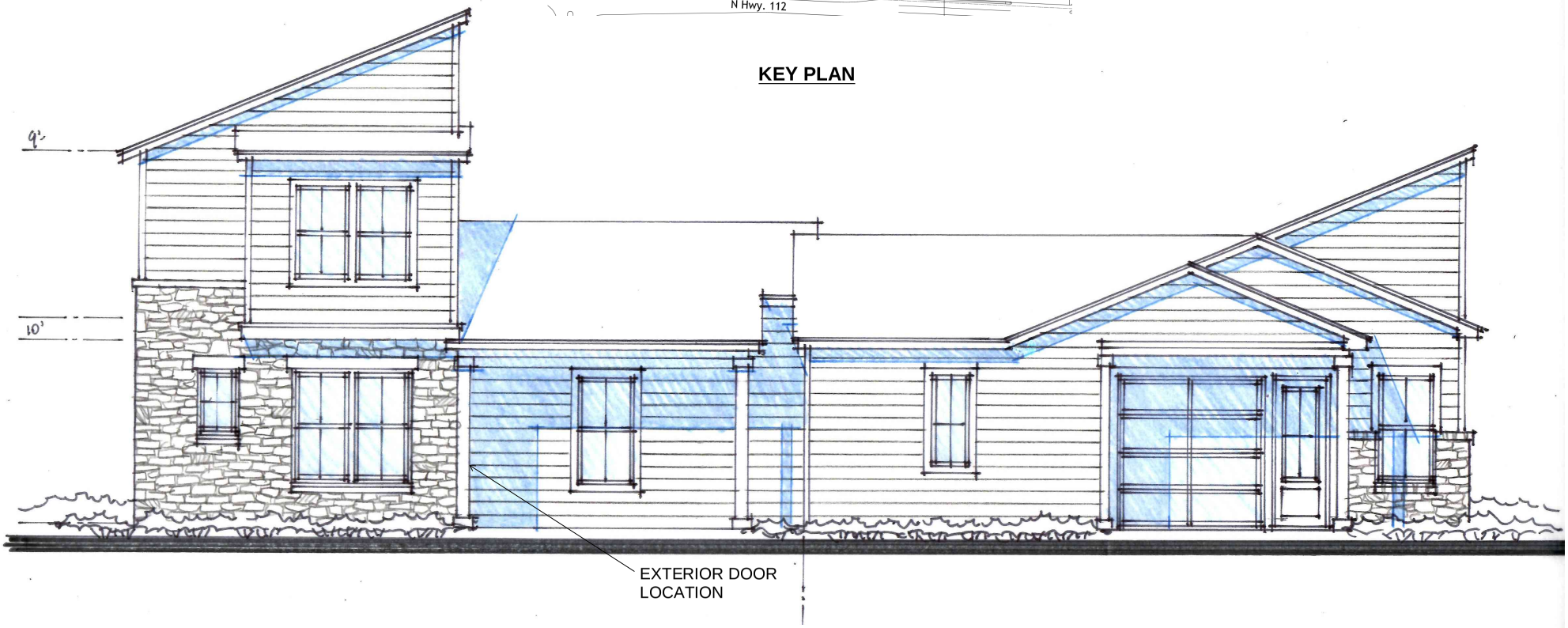

PLAN 1-2 WEST ELEVATION AT 112 RANCH ROAD

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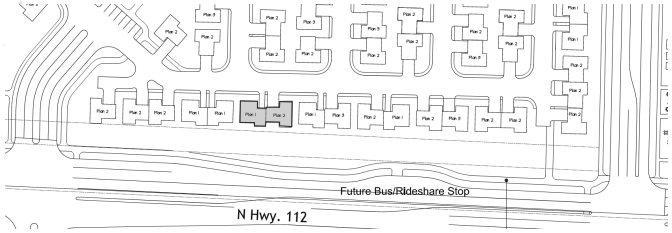

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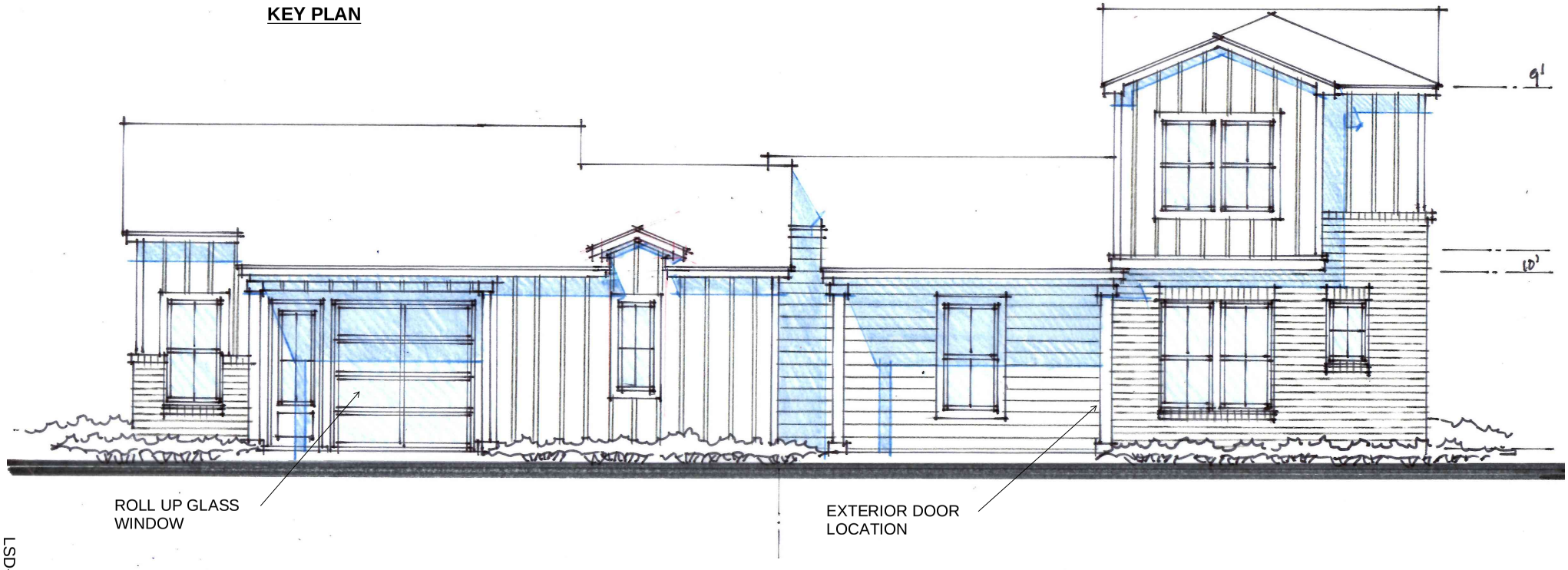

PLAN 2-1 WEST ELEVATION AT 112 RANCH ROAD

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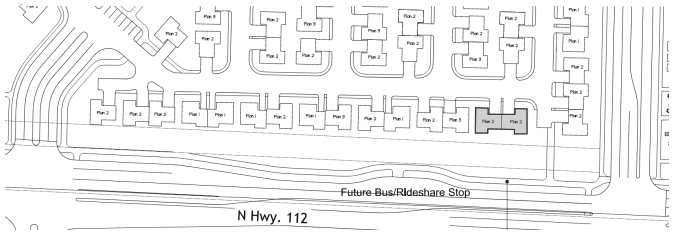

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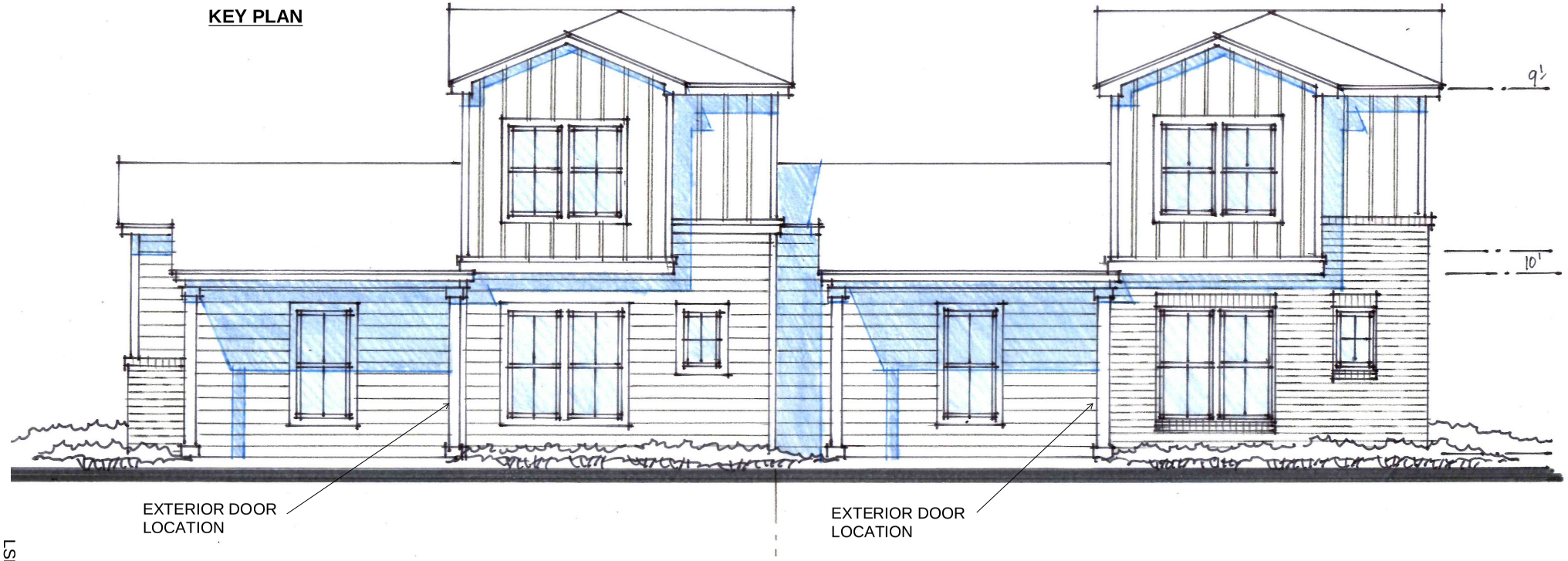

PLAN 2-2 WEST ELEVATION AT 112 RANCH ROAD

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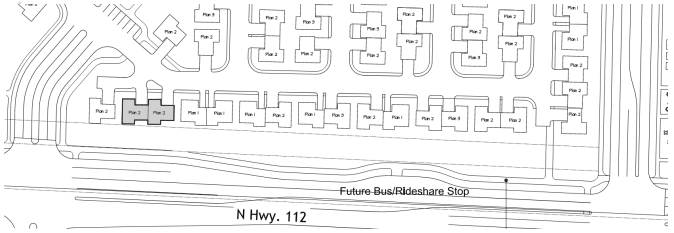

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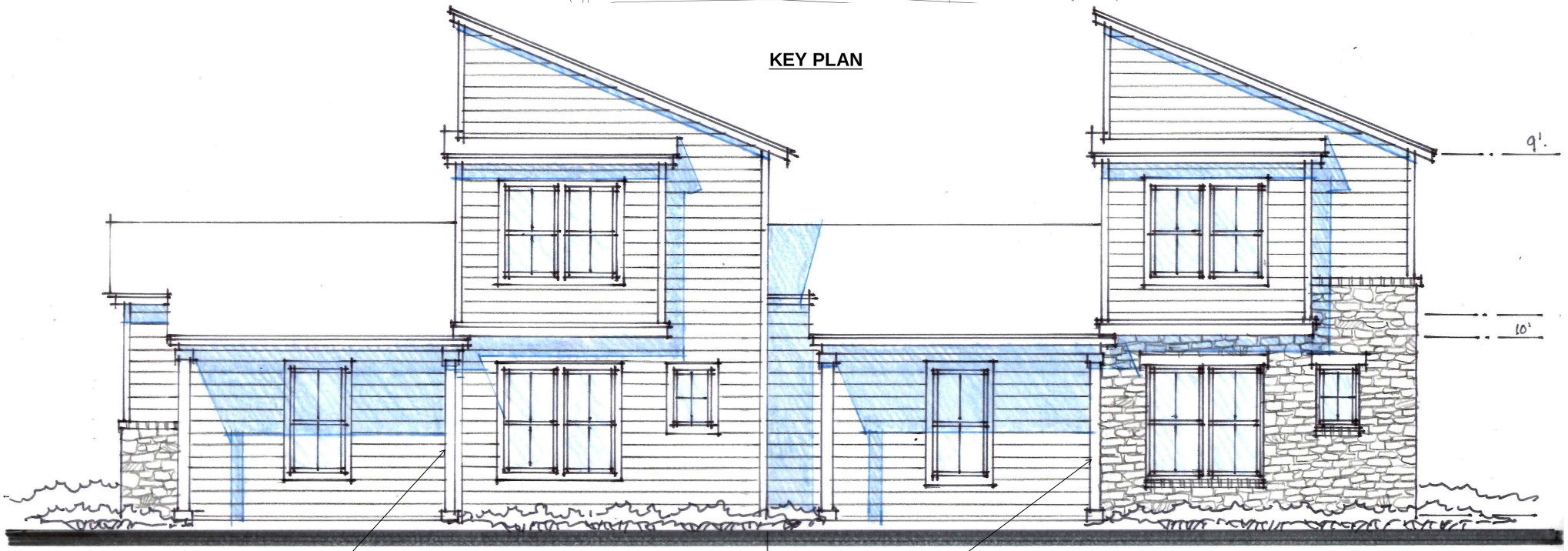

PLAN 2-2 WEST ELEVATION AT 112 RANCH ROAD

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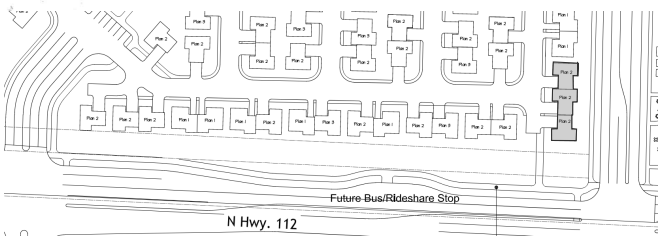

KEY PLAN

PLAN 2-2 WEST ELEVATION AT 112 RANCH ROAD

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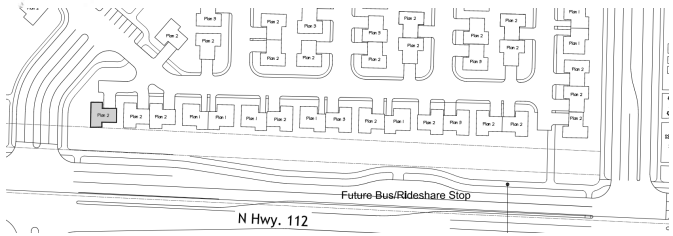

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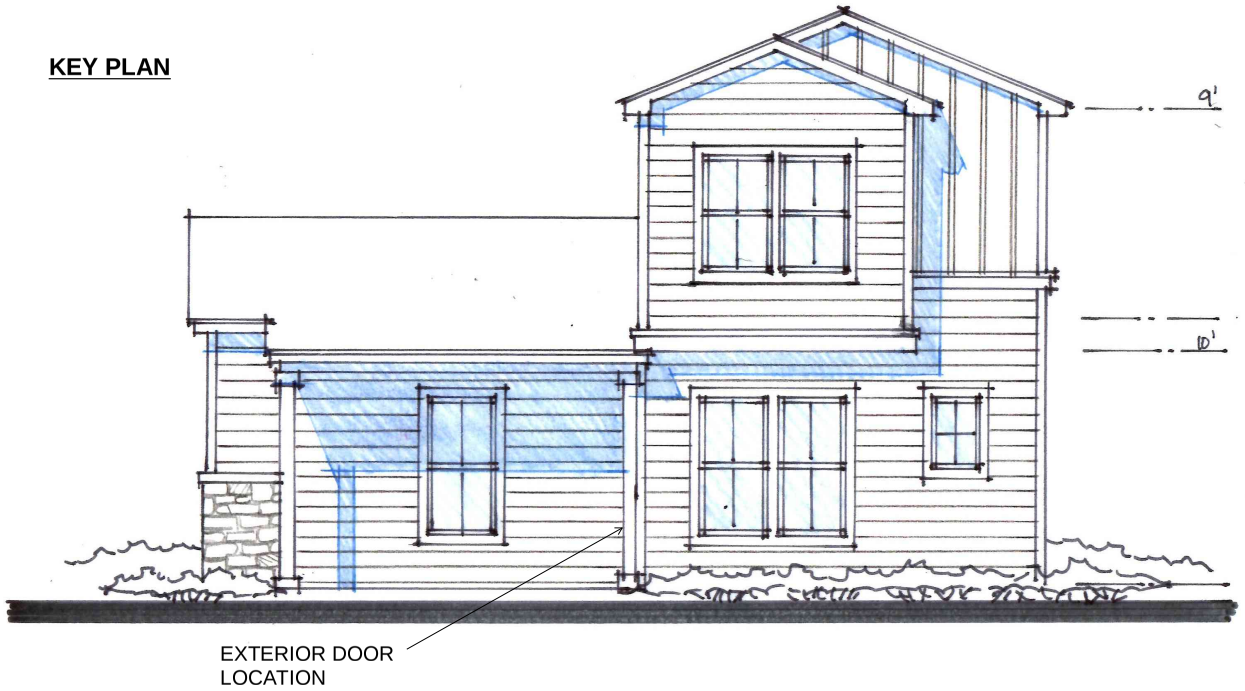

PLAN 2 WEST ELEVATION AT 112 RANCH ROAD

Planning Commission
March 27, 2023
LSD-2022-0041 (112 ARONSON)
Page 51 of 64

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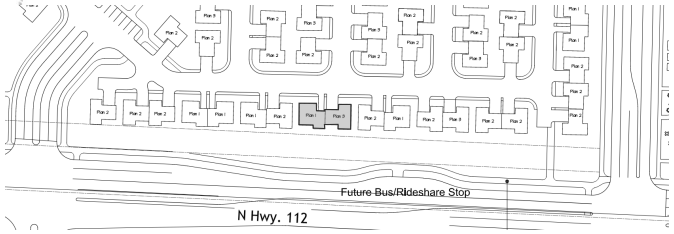

KEY PLAN

PLAN 3-1 WEST ELEVATION AT 112 RANCH ROAD

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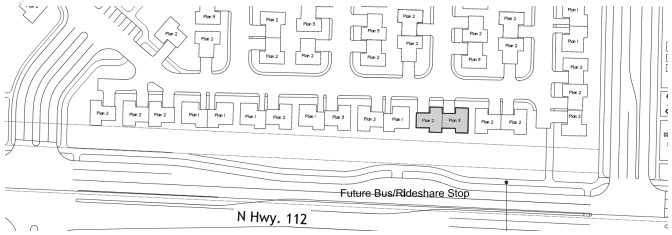

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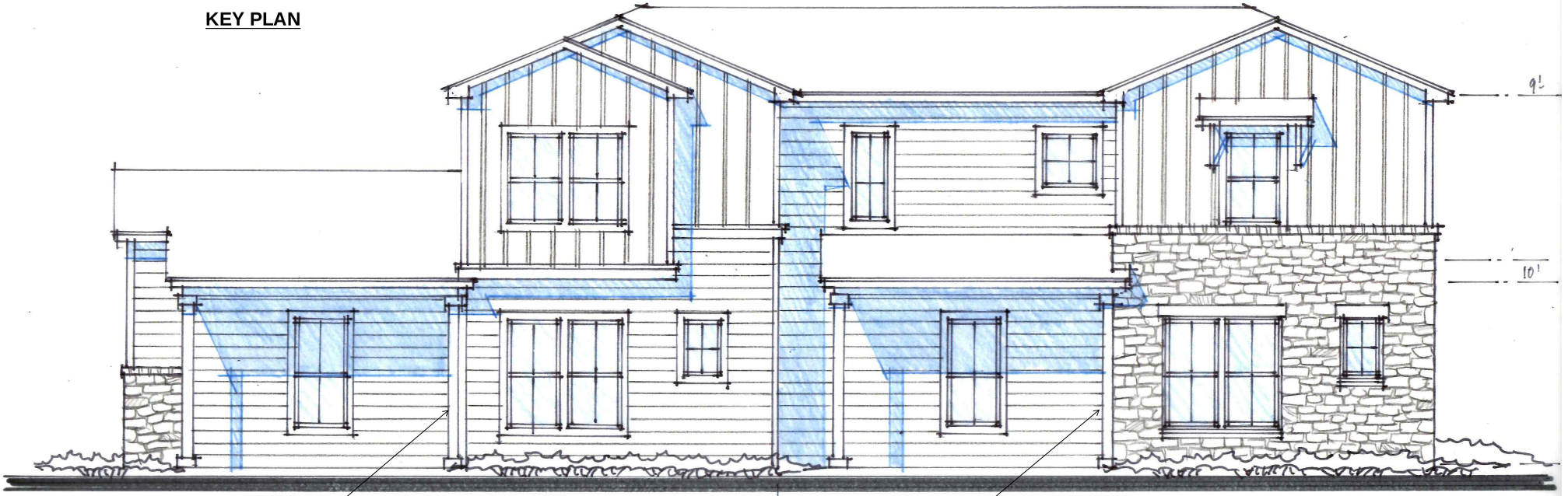

PLAN 3-2 WEST ELEVATION AT 112 RANCH ROAD

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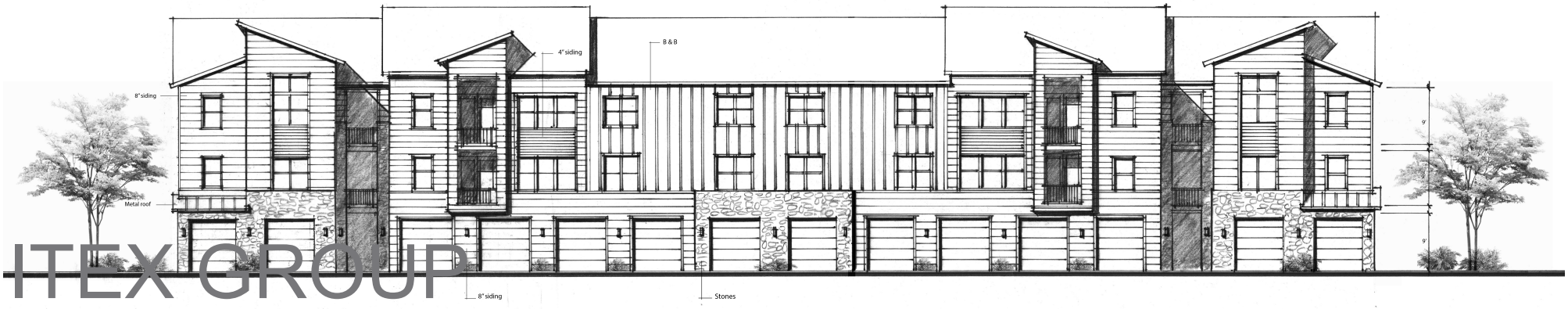
Side Elevations



Rear Elevation

ITEX GROUP

HOUSTON, TX

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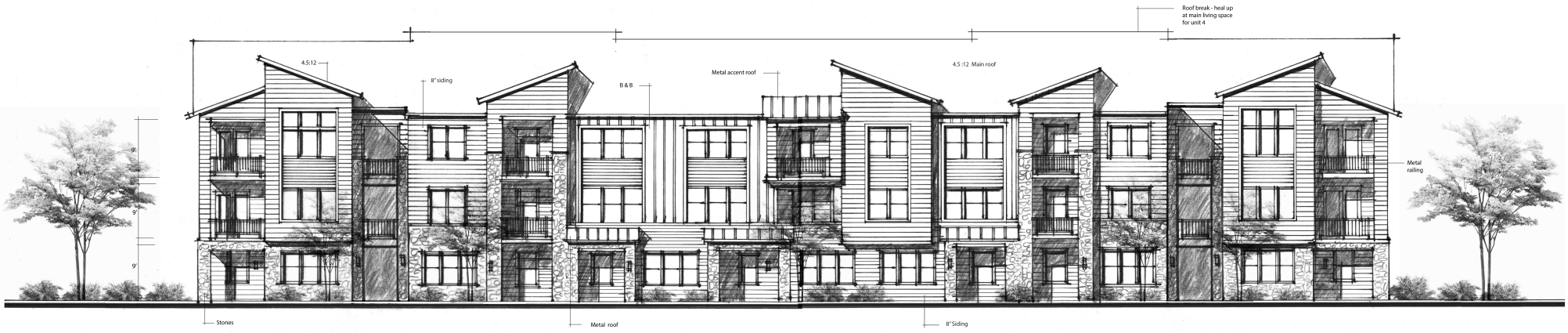

Front Elevation

1/8" scale

TX GROUP
HOUSTON, TX

FAYETTEVILLE 112 REDEVELOPMENT

FAYETTEVILLE, ARKANSAS

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SEPTEMBER 15, 2022 | SR220309

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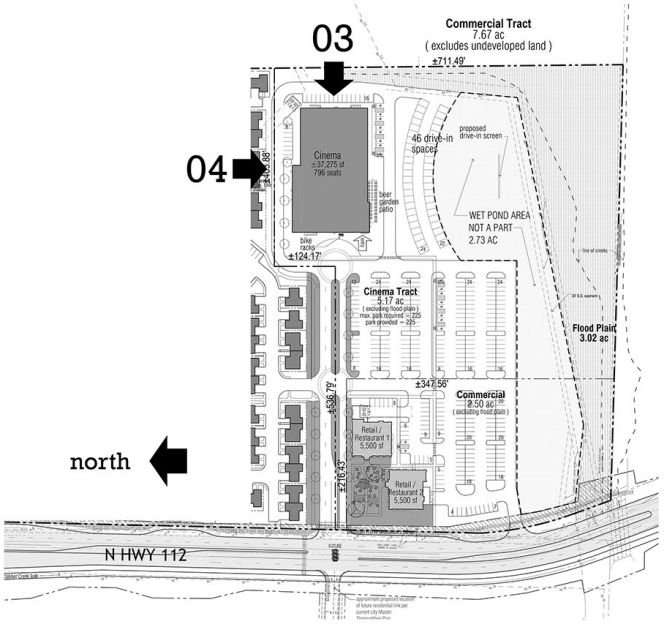
03 EAST ELEVATION CONCEPT



site key

04 NORTH ELEVATION CONCEPT

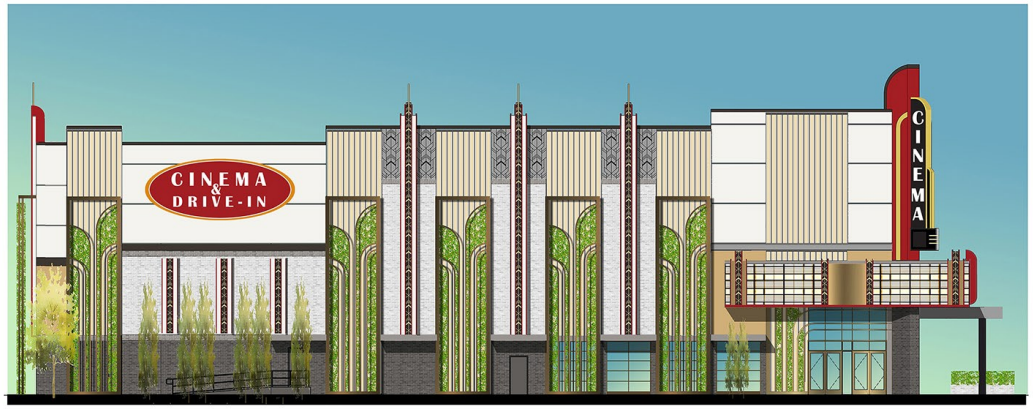
CINEMA & DRIVE-IN

FAYETTEVILLE, ARKANSAS

HODGES Architecture

21074-02 TWS 10/18/22

Planning Commission
March 27, 2023
LSD-2022-0041 (112 ARONSON)
Page 84 of 452
Page 56 of 64



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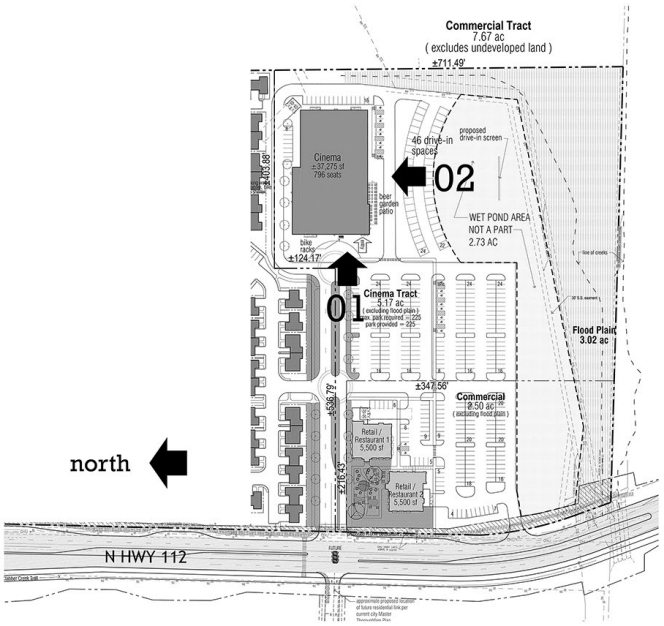


site key

02 SOUTH ELEVATION CONCEPT

HODGES Architecture

21074-02 TWS 10/18/22

CINEMA & DRIVE-IN

FAYETTEVILLE, ARKANSAS

Planning Commission
March 27, 2023
LSD-2022-0041 (112 ARONSON)
Page 85 of 452
Page 57 of 64

Masters, Jessica

From: Boyd, Melissa
Sent: Thursday, March 9, 2023 9:11 AM
To: David Nelms
Cc: Masters, Jessica; Boccaccio, Joshua
Subject: RE: Alamo LSD

Hi David,

Thank you for reaching out and pointing out the top elevation of the pond being below the 100-year floodplain.

We reached out to the engineer and asked them to add a tailwater condition to their detention modeling, which did raise water surface elevations in the pond. We are asking for clarification on this to ensure the pond will function correctly and not have an adverse impact on your property or others.

Please let me know if you have any additional questions.

Thank you,

Melissa Boyd, E.I.
Staff Engineer
Engineering Division
City of Fayetteville, Arkansas
T 479.444.3415
www.fayetteville-ar.gov

CITY OF FAYETTEVILLE ARKANSAS

From: David Nelms <daviddnelms@gmail.com>
Sent: Monday, March 6, 2023 11:26 AM
To: Boyd, Melissa <mboyd@fayetteville-ar.gov>
Subject: Alamo LSD

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Melissa:
I am reaching out to you as the representative of Nelms LLLP, the property owners to the south and east of the proposed LSD at the 112 drive-in.
I was looking at the elevations of their proposed retention pond in relation to the hundred year flood plane elevations, and it appears that the top elevation of their pond is below the hundred year flood plane and the outlet looks so low that in a flood event the water might run back into their pond.
I am no engineer, but wouldn't that make their pond worthless in a big rain event and push the water onto the Auto Park and Sam's Club?
Thank you for your consideration on this. If I'm just not seeing this right, I would appreciate a copy of the report that shows how the floodplain impacts the detention.

Thank You,
David Nelms
--
David D Nelms
(479) 527-7812

Masters, Jessica

From: David Nelms <daviddnelms@gmail.com>
Sent: Tuesday, March 21, 2023 7:28 PM
To: Dave Anderson
Cc: Chris Akbari; Jason Appel; Masters, Jessica; Pennington, Blake
Subject: Re: Aronson/Nelms Update

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dave,
The purpose for requesting independent engineers was to review the drainage and flood models incorporating the Auto Park. We understood that ESI was surveying the Autopark to evaluate the parking lot elevations into your flood models.
The last we heard was that the city engineers had concerns about your retention pond and rising water in the floodplain reducing it's capacity. They requested the project be tabled so that ESI could revise the flood study. Therefore It seems fair to say that not everyone shares ESI's confidence that there will be no adverse impact.
We already knew the elevations of the buildings and a more appropriate evaluation would be the low points of the parking lots - water doesn't have to rise to the elevations of the buildings to do significant damage to vehicles and infrastructure.
We would appreciate an update from ESI's current flood studies and the status of discussions with the city engineering department.
On the city requirement to provide cross connectivity, you guys seem to remember the conversation different than us. You asked if we would cover the engineering fees related to accommodating access to our property not, "all expenses and adjustments accociated with enacting such access."
Perhaps some clarification would be helpful in understanding the scope of what you want us to be responsible for and we can get back together on this before lawyers get involved.
We were hoping to see revisions before Monday's planning commission unless you still plan to seek a variance.
Thank you for getting back to us. Our number one priority is to protect the Auto Part and our neighbors to the west from flooding.
Sincerely,
David Nelms

On Mon, Mar 20, 2023 at 3:04 PM Dave Anderson <hellodave@dbanderson.com> wrote:

> Dear David,
>
> Thank you for bringing your concerns about water and cross-connectivity to our attention. Although we are not legally required to do so, we are willing to voluntarily grant a cross-access variance to the Nelms property on the southern end of the Aronson property. This would be contingent on all expenses and adjustments associated with enacting such access through our property being borne by the Nelms group. If this is acceptable to you, we will have our legal team draft an agreement for your review. However, please note that this easement is not required of us and negotiations will be independent of the city approval process. We hope this goodwill offer of access is pleasing to you. Also, we have provided the elevation data at the auto park you requested, completed at our own expense.

Sincerely,

Dave Anderson

CL Partners

--

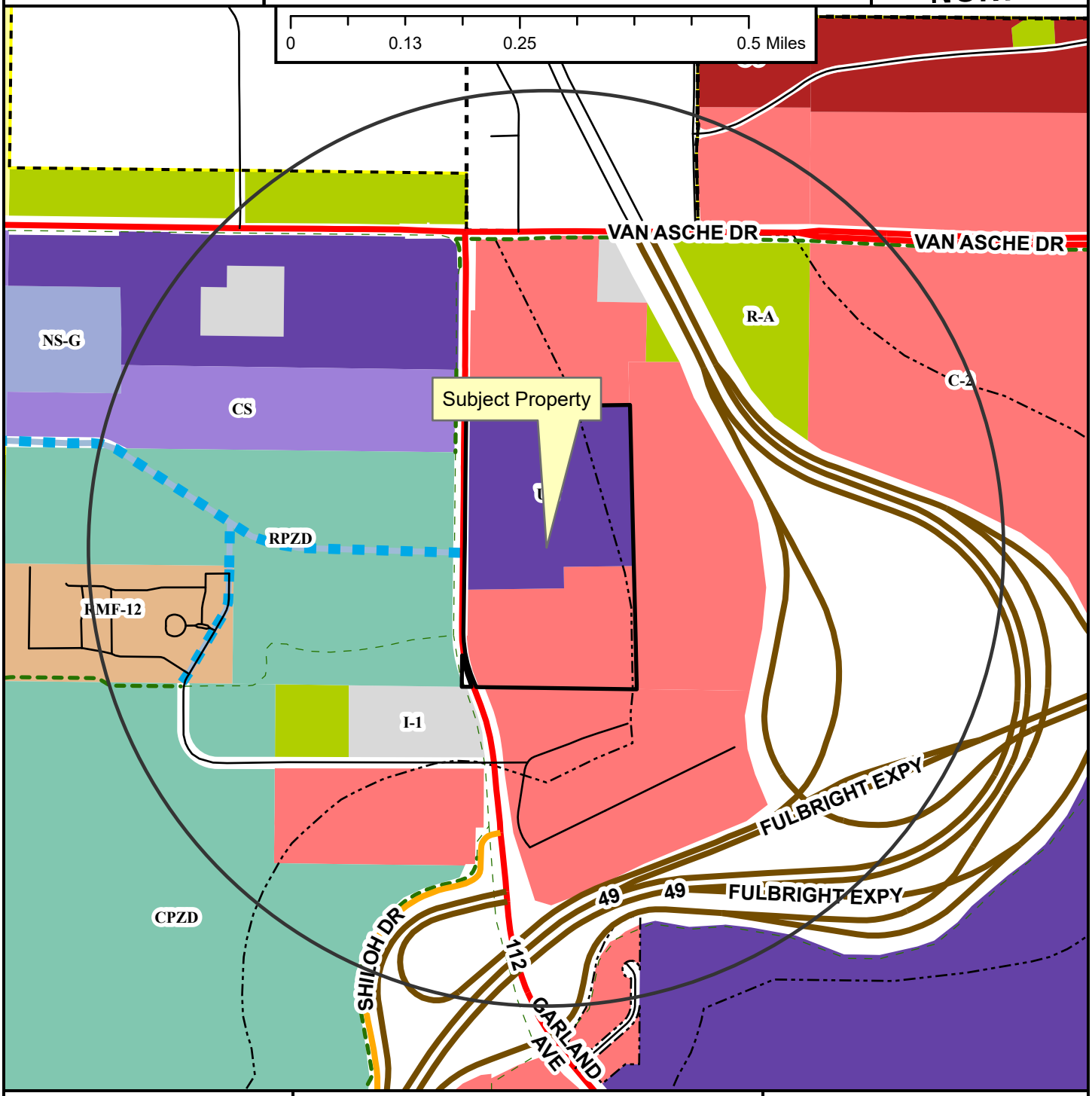
David D Nelms
(479) 527-7812

LSD-2022-0041

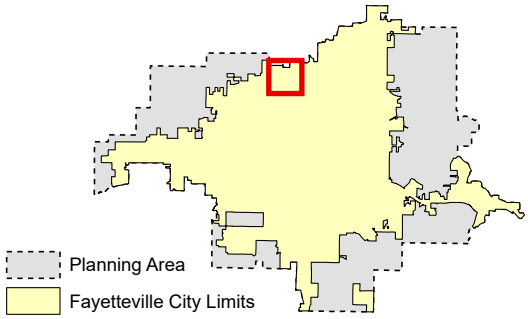
One Mile View

N. HWY 112

NORTH



- Regional Link
- Neighborhood Link
- Freeway/Expressway
- Unclassified
- Residential Link
- Planned Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Fayetteville City Limits
- Planning Area



Zoning

RESIDENTIAL SINGLE-FAMILY
- NS-G
- RI-U
- RI-12
- NS-L
- Residential-Agricultural
- RSF-.5
- RSF-1
- RSF-2
- RSF-4
- RSF-7
- RSF-8
- RSF-18

RESIDENTIAL MULTI-FAMILY
- RMF-6
- RMF-12
- RMF-18
- RMF-24
- RMF-40

INDUSTRIAL
- I-1 Heavy Commercial and Light Industrial
- I-2 General Industrial

EXTRACTION
- E-1

COMMERCIAL
- Residential-Office
- C-1
- C-2
- C-3

FORM BASED DISTRICTS
- Downtown Core
- Urban Thoroughfare
- Main Street Center
- Downtown General
- Community Services
- Neighborhood Services
- Neighborhood Conservation

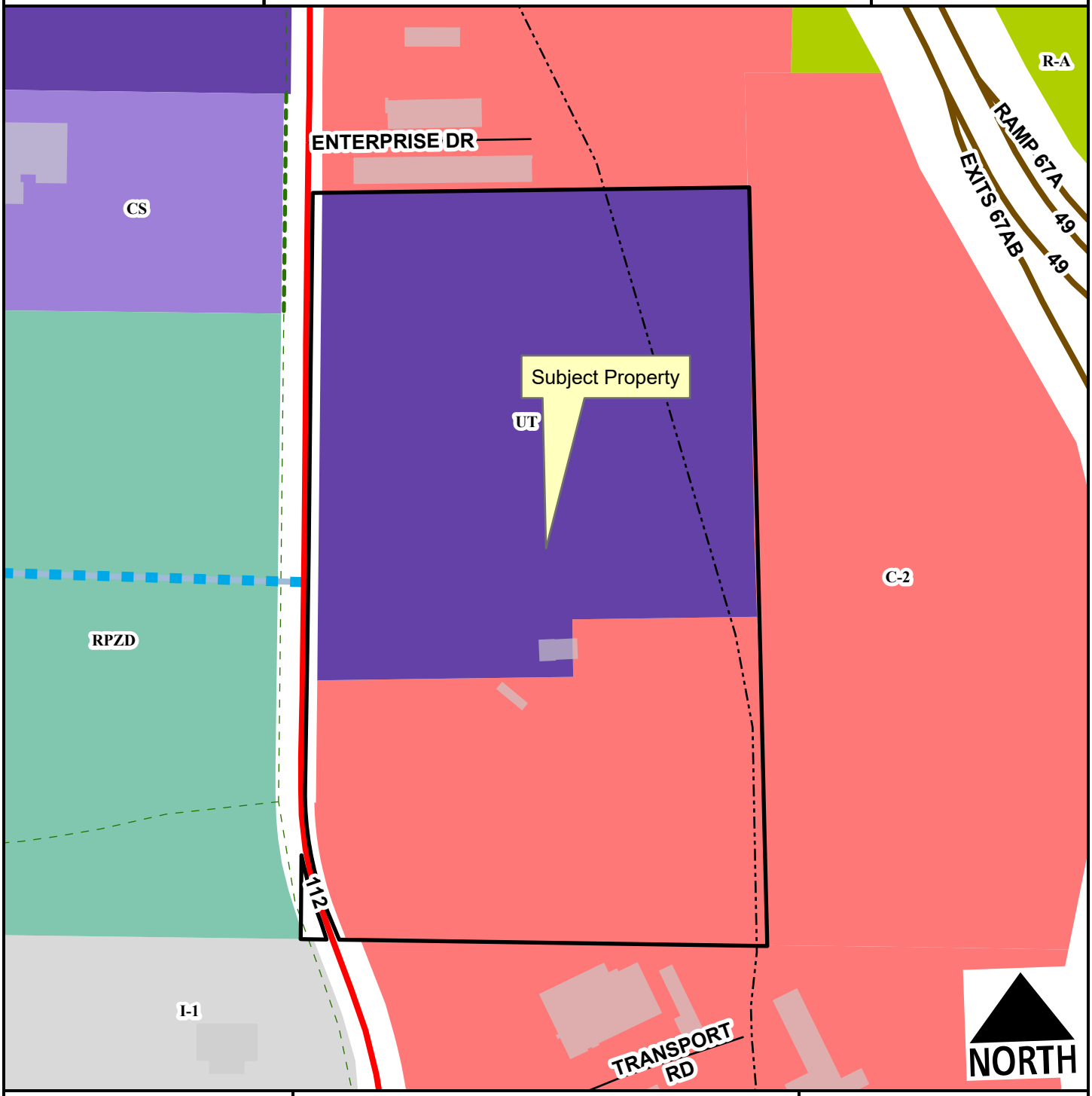
PLANNED ZONING DISTRICTS
- Commercial, Industrial, Residential

INSTITUTIONAL
- P-1

LSD-2022-0041

Close Up View

N. HWY 112



- Regional Link
- Freeway/Expressway
- Unclassified
- Planned Residential Link
- Planning Area
- Fayetteville City Limits
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District

Feet

0 115 230 460 690 920

1:3,750

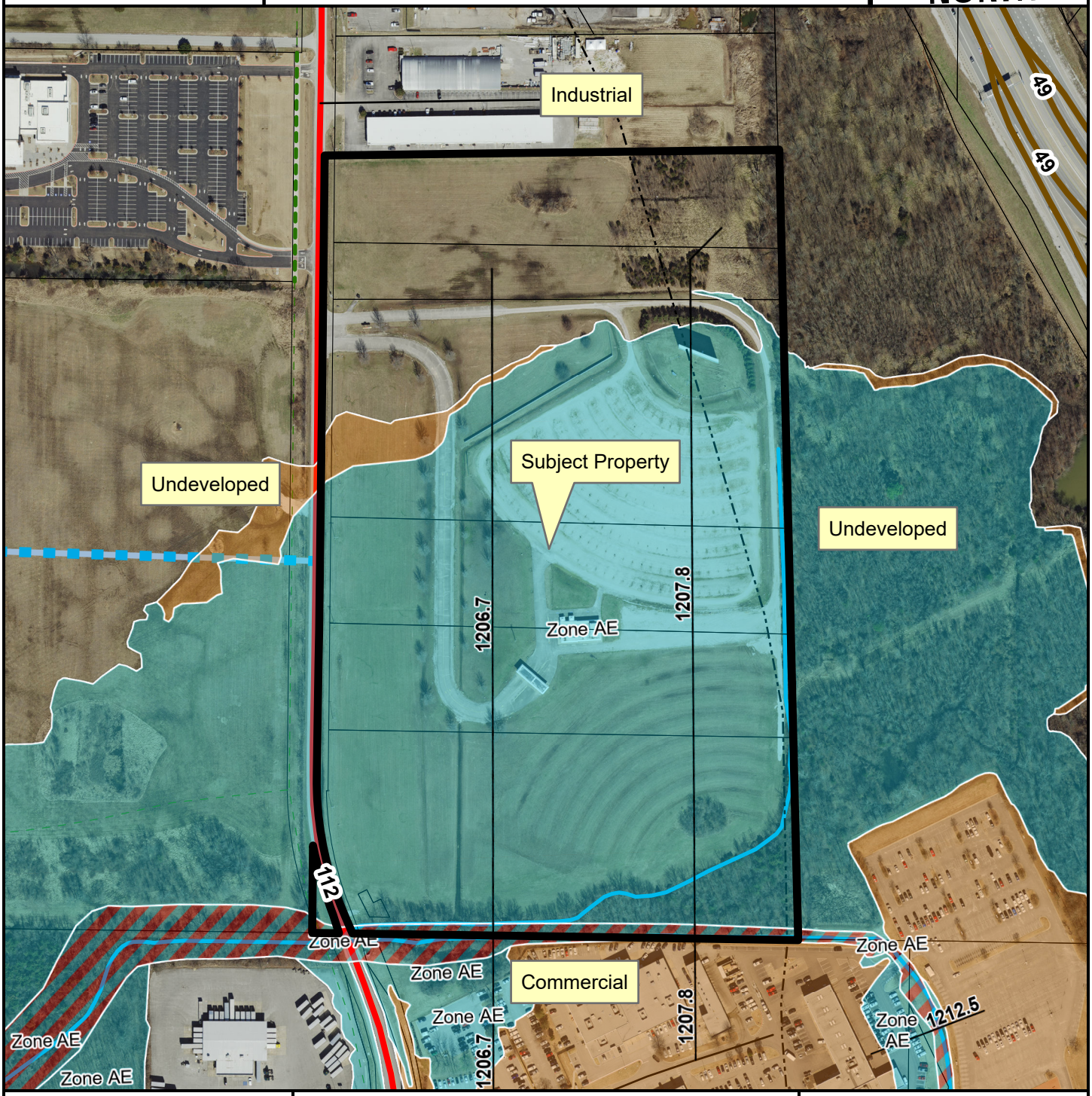
- Residential-Agricultural
- I-1 Heavy Commercial and Light Industrial
- C-2
- Urban Thoroughfare
- Community Services
- Commercial, Industrial, Residential

LSD-2022-0041

Current Land Use

N. HWY 112

NORTH



- Regional Link
- Freeway/Expressway
- Unclassified
- Planned Residential Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits
- Design Overlay District

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Planner
Melissa Boyd, Staff Engineer
Melissa Evans, Urban Forester

MEETING: March 27, 2023

SUBJECT: **LSD-2023-0001: Large Scale Development (2373 N. GREGG AVE./JRG HOLDINGS LLC, 328):** Submitted by JORGENSEN & ASSOCIATES for property located at 2373 N. GREGG AVE. The property is zoned I-1, HEAVY COMMERCIAL AND LIGHT INDUSTRIAL and contains approx. 3.79 acres. The request is for a 12,000-square-foot warehouse building and additional paved laydown area.

RECOMMENDATION:
Staff recommends approval of **LSD-2023-0001** with conditions.

RECOMMENDED MOTION: *"I move to approve **LSD-2023-0001**, determining:*

- *In favor of recommended right-of-way dedication,*
- *In favor of recommended street improvements,*
- *In denial of a variance to UDC §168.10(U), and*
- *In favor of all other conditions as recommended by staff."*

MARCH 13, 2023 PLANNING COMMISSION MEETING:
At the March 13, 2023 Planning Commission meeting, staff recommended that the item be tabled until the March 27, 2023 Planning Commission meeting to give the applicant time to address outstanding comments and concerns from the City's Engineering Division related to the provided flood study. In the intervening weeks, the applicant worked with Engineering to discuss remaining comments and provide updated information.

BACKGROUND:
The subject property is in north Fayetteville on the west side of Gregg Avenue just southwest of Township Street. The property is the current location of Concrete Solutions and is developed with an industrial building and associated paved/gravel areas. The property totals roughly 3.79 acres and is currently zoned I-1, Heavy Commercial and Light Industrial. Scull Creek, a protected stream, runs along the west side of the property, and a portion of the site is located within a FEMA-designated floodplain and contains hydric soils. Surrounding land uses and zoning are depicted in *Table 1.*

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Industrial	I-1, Heavy Commercial and Light Industrial
South	Industrial	I-1, Heavy Commercial and Light Industrial
East	Frisco Railroad	I-1, Heavy Commercial and Light Industrial; C-2, Thoroughfare Commercial
West	Scull Creek Trail; UA Agri Farm	C-2, Thoroughfare Commercial

Proposal: The applicant requests large scale development approval to develop the subject property with a 12,000-square-foot warehouse and additional paved laydown area. One variance from the Unified Development Code has been requested which is described below alongside staff's recommendation:

- **§168.10(U): Provisions For Flood Hazard Reduction.** The applicant is requesting a variance to this section of code, which prohibits increases in flood flows, flood heights, and flood velocities, to allow for an increase in flood velocities and base flood elevations resulting from the installation of a retaining wall, and to allow for no compensatory storage.
    - *Staff recommendation: Staff is recommending denial of this variance request. The provided flood study indicates increases in base flood elevations on the subject property and at least two others nearby. Further, there are cross sections where the velocities in the stream are likely already erosive but are shown to increase in velocity above what they are today. Staff is not able to support a request that can potentially cause further streambank erosion in the channel and adversely impact other properties. Staff is also not able to support the applicant's request to allow for no compensatory storage. The applicant has indicated that providing compensatory storage is not possible since it would require the removal of additional trees, though staff finds that to be a self-imposed hardship resulting from the proposed design of the site.*

Right-of-Way to be Dedicated: The subject property has frontage along an unnamed frontage road, which is classified as a Residential Link, with existing right-of-way in the amount of 24 feet from the centerline of the road. Staff recommends that right-of-way be dedicated in the amount of 26 feet from centerline to align with the standard street section for a Residential Link.

Street Improvements: Staff is not recommending any street improvements in association with this project.

Access Management/Connectivity: Staff has determined that the proposed development is compliant with the City's access management and connectivity standards. Access to the site is proposed through two existing driveways which the applicant intends to bring into compliance with the City's parking lot design standards as part of this development. A variance from the City's curb cut separation requirements was previously requested at Subdivision Committee for the driveway to the north, though that separation distance has since been administratively approved by the City Engineer.

Design Standards: N/A; industrial uses outside of the I-540 Overlay District are not subject to any design standards per the Unified Development Code.

Water and Sewer System: An eight-inch water main and six-inch fire line are proposed with this development to provide access to water. No new service lines or meters are proposed. No sanitary sewer main extensions or services are proposed for this development, either.

Parkland dedication or fee in-lieu: N/A; this project is not subject to parkland dedication requirements.

Tree Preservation:
Canopy minimum requirement: 15%
Existing canopy: 33.8%
Preserved canopy: 12.7%
Mitigation required: 18 two-inch caliper trees

Public Comment: To date, staff has not received any public comment on this item.

RECOMMENDATION: Staff recommends approval of **LSD-2023-0001** with the following conditions:

Conditions of Approval:

1. Planning Commission determination of right-of-way dedication. *Staff recommends right-of-way dedication in the amount of 26 feet from the centerline of the road along the property's frontage;*

   Subdivision Committee recommended in favor of this.

2. Planning Commission determination of street improvements. *Staff recommends no street improvements with this project;*

   Subdivision Committee recommended in favor of this.

3. Planning Commission determination of a variance to UDC §168.10(U), Provisions for Flood Hazard Reduction. *Staff recommends denial of this variance for the reasons stated above;*

   Subdivision Committee did not make a recommendation on this variance.

4. Conditions of approval from Engineering and Urban Forestry are included in the official conditions of approval, attached hereto;

Standard Conditions of Approval:

5. Impact fees for fire, police, water, and sewer shall be paid in accordance with City ordinance;

6. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives: Black Hills Energy, AT&T, Ozarks, SWEPCO, and Cox Communications);

7. All mechanical/utility equipment (roof and ground mounted) shall be screened using materials that are compatible with and incorporated into the structure. A note shall be clearly placed on the plat and all construction documents indicating this requirement;

8. Trash enclosures shall be screened on three sides with materials complimentary to and compatible with the principle structure. Containers may also be screened from view of the street by the principal structure or vegetation. Elevations of the proposed dumpster enclosure shall be submitted to the Planning and Solid Waste Divisions for review prior to building permit;

9. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground;

10. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements;

11. All exterior lights shall comply with the City lighting ordinance. Manufacturer's cut-sheets are required for review and approval prior to issuance of a building permit;

12. All freestanding and wall signs shall comply with ordinance specifications for location, size, type, number, etc. Any proposed signs shall be permitted by a separate sign permit application prior to installation. Freestanding pole signs and electronic message boards (direct lighting) are prohibited in the I-540 Design Overlay District;

13. Large scale development shall be valid for one calendar year;

14. Contact the City's Emergency 911 Address Coordinator for addressing prior to building permit;

15. Prior to building permit, a cost estimate for all required landscaping is to be submitted to the Landscape Administrator for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy; and

16. Prior to the issuance of a building permit the following is required:
    a. Grading and drainage permits;
    b. Separate easement plat for this project that shall include the tree preservation area and all utility and access easements;
    c. Exterior lighting package must be provided to the Planning Division;
    d. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance;
    e. Project Disk with all final revisions; and
    f. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

PLANNING COMMISSION ACTION:	**Required**	**YES**		
Date: March 27, 2023	**❒ Tabled**	**❒ Forwarded**	**❒ Denied**	
Motion:				
Second:				
Vote:				

BUDGET/STAFF IMPACT:
None

ATTACHMENTS:

- Engineering Memo
- Urban Forestry Comments
- Request Letter
- Variance Request Letter
- Site Plan
- Elevations
- One Mile Map
- Close-up Map
- Current Land Use Map

CITY OF FAYETTEVILLE ARKANSAS

STAFF MEMO

TO: Gretchen Harrison, Planner

FROM: Melissa Boyd, Staff Engineer

DATE: March 22, 2023

SUBJECT: **Planning Commission Engineering Comments for LSD-2023-0001 CONCRETE SOLUTIONS**

Water: 353 LF of 8" water main and 202 LF of 6" fire line are proposed with this development. No new service lines or meters are proposed.

Sewer: No sanitary sewer main extensions or services are proposed for this development.

Natural Features: Scull Creek, a protected stream, is present along the western portion of the subject property and lies within a FEMA Zone AE floodplain. No improvements are proposed within the Streamside Protection Zones. A 480 LF retaining wall, up to 21' in height for approximately 280 LF of the wall's length, and associated fill are proposed within the floodplain.

Staff is recommending denial of the variance request to UDC §168.10(U) to allow for increases in base flood elevations and velocities, and to not provide compensatory storage. Further detail about staff's recommendation is below:

1. The flood study indicates increases in base flood elevations on this property and at least two others.
2. There are cross sections where the velocities in the stream are likely already erosive but are shown to increase in velocity above what they are today. Staff is unable to support a request that can potentially cause further streambank erosion in the channel.
3. The applicant has indicated that providing compensatory storage would require additional removal of trees on site, which is a self-imposed hardship resulting from the site design.

Hydric soils appear to be present on the western portion of this site, and a wetland delineation study is required to determine if any U.S. Army Corps of Engineer jurisdictional wetlands will be affected by this development. Any area(s) determined to be jurisdictional wetlands will require appropriate permits be obtained from the USACE prior to engineering issuing the grading permit. The applicant indicates that this study is being performed and will be provided once it is completed.

Drainage: This development is required to meet the four Minimum Standards of the Drainage Criteria Manual. Water quality requirements are shown to be met by use of isolator rows in the StormTech underground detention system. Channel protection requirements are indicated to be met by sizing the outlet structure to release the runoff from 1-year, 24-hour storm event over a period of 40 hours. Overbank flood protection and extreme flood protection requirements will be met by sizing the pond outlet structure so that the peak flows leaving the site decrease from pre-

development to post-development. Construction-level review will be conducted at time of grading permit application.

Plan Comments:

1. Pavement repair for water line construction within the street will be determined at the construction level. Mill and overlay of the street may be required.
2. Off-site modification to the existing shared curb cut to the south will require written approval from the adjacent property owner prior to engineering issuing the grading permit.

Standard Comments:

1. All designs are subject to the City's latest design criteria (water, sewer, streets and drainage). Review for plat approval is not approval of public improvements, and all proposed improvements are subject to further review at the time construction plans are submitted.
2. Any damage to the existing public street due to construction shall be repaired/replaced at the owner/developers expense
3. All public sidewalks, curb ramps, curb & gutter, and driveway aprons along this project frontage must meet ADA guidelines and be free of damage. Any existing infrastructure that does not conform to ADA guidelines or is otherwise damaged must be removed and replaced to correct the issue. Coordinate with the engineering department for inspection of existing facilities to determine compliance.
4. Water and sewer impact fees will apply for the additional impact to the system. The fees will be based on the proposed meter size and will be charged at the time of meter set.
5. Note, the following portions of all projects will typically not be reviewed by the Engineering Division until time of construction-level review (unless specifically requested at plat review):
    - Storm Sewer pipe/inlet sizing, gutter spread, profiles, or utility conflicts
    - Sanitary Sewer pipe sizing, profiles, or utility conflicts
    - Waterline fittings, callouts, or utility conflicts
    - Street profiles
    - Fine grading/spot elevations

CITY OF FAYETTEVILLE ARKANSAS

URBAN FORESTRY
TREE PRESERVATION COMMENTS

To: Charles Zardin, PE, Jorgensen + Associates

From: Melissa M. Evans, Urban Forestry

CC: Gretchen Harrison, Planner

Meeting Date: March 13, 2023

Subject: LSD-2023-0001: Concrete Solutions: 2373 N. Gregg Ave., 328

1. Submittal Requirements	Yes	No	N/A
Initial Review with the Urban Forester		X	
Site Analysis Map Submitted (if justification is needed)			X
Site Analysis Written Report Submitted (justification is needed)	X		
Complete Tree Preservation Plan Submitted	X		
Tree Mitigation Table on Plans	X		
Tree Preservation Wavier Submitted (only use if no trees onsite or near P/L)			X

2. Tree Preservation Calculations

Tree Preservation Calculations Acres		
	Acres	**Percent of site**
Total Site Area *Minus Right of Way and Easements	3.79	100%
*Zoning Designation * Select Below with drop down arrow*		
I-1, Heavy Commercial and Light Industrial	0.57	15%
*HHOD * Select Below with Drop Down Arrow*		
No	0	0%
Total Canopy for Minimum Preservation Requirements	0.57	15.0%
Existing Tree Canopy * Minus Right of Way and Easements	1.28	33.8%
Tree Canopy Preserved	0.48	12.7%
Tree Canopy Removed *On Site	0.80	21.1%
Tree Canopy Removed *Off Site	0.00	
Tree Canopy Removed Total	0.80	21.1%
Removed Below Minimum	**0.09**	
Mitigation Requirements	**0.09**	
Mitigation Requirements in Square Feet	**3,855**	

3. Mitigation Requirements	Canopy below requirement	Number of 2" caliper trees to be planted
High Priority	3,855	18
Low Priority	0	0
Total Mitigation Trees Required	**3,855**	**18**

4. Mitigation Type	Yes	No	N/A
On-Site Mitigation	**X**		
Off-Site Mitigation			**X**
Tree Escrow (See Conditions of Approval)			**X**

5. Tree Preservation Plan Checklist *UDC Chapter 167.04H1*	Tech Plat	Subdivision Committee	Planning Commission
a. 5 year Aerial Check on Existing Trees	**Yes**		
b. Property Boundary	**Yes**		
c. Natural Features (100ft beyond limits of disturbance)	**Yes**		
d. Existing Topography and Proposed Grading	**Yes**		
e. Soil Types	**Yes**		
f. Significant Trees	**Yes**		
g. Groupings of Trees	**Yes**		
h. Table Inventory List (species, size, health, priority)	**Yes**		
i. All Existing and Proposed Utilities	**Yes**		
j. All Existing and Proposed Utility Easements and ROW's	**Yes**		
k. All Streams (with approximate center line)	**Yes**		
l. Floodplains and floodways	**Yes**		
m. Existing Street, Sidewalk or Bike Path ROW	**Yes**		
n. Submitted Site Analysis Plan (if required)	**Yes**		
o. Shows ALL Proposed Site Improvements	**Yes**		
p. Delineates trees/canopy to be preserved and removed	**Yes**		
Tree Protection Methods			
a. Tree Protection Fencing	**Yes**		
b. Limits of Root Pruning	**Yes**		
c. Traffic flow on work site	**N/A**		
d. Location of material storage	**Yes**		
e. Location of concrete wash out	**Yes**		
f. Location of construction entrance/exit	**No**		

6. Site Analysis Report (if required) *UDC Chapter 167.04H4*	Yes	No	N/A
a. Provide graphic examples of multiple options used to minimize removal of existing canopy			**X**
b. Submitted Analysis Statement – Note the process, iterations, and approaches to preserve canopy.	**X**		

7. Review Status	Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved	**01-18-23** **02-14-23**		**03-08-23**
Approved			
Tabled		**03-01-23**	
Denied			

Comments

1. Address items above marked “No” and all Redlines provided.
2. Please show Tree Preservation Easement/s as required by Ch. 167.04(L)(1) for LSD projects.

CITY OF FAYETTEVILLE ARKANSAS

URBAN FORESTRY
LANDSCAPE PLAN COMMENTS

To: Charles Zardin, PE, Jorgensen + Associates

From: Melissa M. Evans, Urban Forestry

CC: Gretchen Harrison, Planner

Meeting Date: March 13, 2023

Subject: LSD-2023-0001: Concrete Solutions: 2373 N. Gregg Ave., 328

1. General Landscape Plan Checklist	Yes	No	N/A
a. Irrigation (notes either automatic or hose bib 100' o.c.) *UDC Chapter 177.03C7g, 177.04B3a*	X		
b. Species of plant material identified *UDC Chapter 177.03C7d,e*	X		
c. Size of plant material (minimum size 2" caliper for trees and 3 gal. shrubs) *UDC Chapter 177.03C7b,c*	X		
d. Soil amendments notes include that soil is amended and sod removed *UDC Chapter 177.03C6b*	X		
e. Mulch notes indicate organic mulching around trees and within landscape beds *UDC Chapter 177.03C6c,d*	X		
f. LSD, LSIP, and Subdivisions (PPL & FPL) plans stamped by a licensed Landscape Architect, others by Landscape Designer *UDC Chapter 177.03B*		X	
g. Planting bed contained by edging *UDC Chapter 177.03C6f*	X		
h. Planting details according to Fayetteville's Landscape Manual *UDC Chapter 177.03C6g*	X		
i. Provide information about 3-Year Maintenance plan. The owner shall deposit with the City of Fayetteville a surety for approved landscape estimate. *UDC Chapter 177.05 A2g*	X		

2. Parking Lot Requirements 1 Tree : 12 Parking Spaces	Yes	No	N/A
a. Wheel Stops/Curbs *UDC Chapter 177.04B1*		X	
b. Narrow Tree Lawn (8' min. width, 37.5' length) *UDC Chapter 177.04C*			X

c.	Tree Island (8’ min. width, 18.7’ min length OR 150 square feet) *UDC Chapter 177.04C*		**X**	
d.	Placement of Trees (either side at entrances and exits) *UDC Chapter 177.04C2*		**X**	
3.	**Perimeter Landscaping Requirements**	**Yes**	**No**	**N/A**
a.	Front Property Line (15’ wide landscape) and five on sides. *UDC Chapter 177.04D2a*		**X**	
b.	Side and Rear Property Lines (5’ Wide Landscape Area) *UDC Chapter 177D1*	**Yes**		
c.	Shade trees planted on south and west sides of parking lots *UDC Chapter 177.04D2e*		**X**	
d.	Screening of parking lot from adjacent residential properties.			**X**
4.	**Street Tree Planting Requirements**	**Yes**	**No**	**N/A**
a.	Residential Subdivisions 1 Large Shade Species Tree per Lot *UDC Chapter 177.05B1a*			**X**
b.	Non-Residential Subdivisions 1 Large Species Shade Tree every 30’ (planted in greenspace) *UDC Chapter 177.05B2a*			**X**
c.	Urban Tree Well – Urban Streetscapes Trees every 30’ (8’ sidewalk) *UDC Chapter 177.05B3a-f*			**X**
d.	Structured Soil – Urban Tree Wells Include a note and/or detail of structural soil on Landscape Plan *UDC Chapter 177.05B3a-f*			**X**
e.	Residential Subdivisions Timing of planting indicated on plans *UDC Chapter 177.05A4*			**X**
f.	Residential Subdivisions Written description for method of tracking planting *UDC Chapter 177.05A4e*			**X**

5. Landscape Requirement Totals	Amount
Mitigation Trees	**18**
Parking Lot Trees	**1 required**
Street Trees	**4**
Detention Pond – Large Trees (1 Tree/3,000 square feet)	**0**
Detention Pond – Small Tree/Large Shrub (4 small trees or large shrubs/3,000 square feet)	**0**
Detention Pond – Small Shrubs/Large Grasses (6 shrubs or grasses (1 gallon)/3,000 square feet)	**0**

6. Review Status (See Comments)	Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved	**01-18-23**		**03-08-23**
	02-14-23		
Approved			
Tabled		**03-01-23**	
Denied			

Comments

1. Address items above marked “No” and all Redlines provided.
2. The plan must be stamped, signed and dated by the design landscape architect.

JORGENSEN
+ASSOCIATES
Civil Engineering + Surveying

124 W Sunbridge Drive, Suite 5
Fayetteville, AR 72703
Office: 479.442.9127
Fax: 479.582.4807
www.jorgensenassoc.com

January 3, 2023

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Attn: Development Services
Re: Large Scale Development for 2373 Gregg Ave.

This letter is in regards to a proposed Large Scale Development at 2373 Gregg Ave. The 3.79 acre property is the location of Concrete Solutions, which contains an existing industrial building with associated paved/gravel areas. The proposed development includes the addition of a 12,000 square foot warehouse building and additional paved laydown area. An underground detention facility is being proposed to provide stormwater control and water quality benefits.

The western portion of the site is located within Flood Zone AE. The site slopes down toward the Scull Creek Floodway. However, no construction or disturbance is proposed within the floodway.

We thank you for your consideration of this proposal and please call with any questions,

Thank you.

Sincerely;

Charles A. Zardin, PE

JORGENSEN
+ASSOCIATES
Civil Engineering · Surveying

124 W Sunbridge Drive, Suite 5
Fayetteville, AR 72703

Office: 479.442.9127
Fax: 479.582.4807
www.jorgensenassoc.com

February 1, 2023

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Attn: Development Services
Re: LSD 2023-0001 for Joe Gray

Please accept this request for a variance from the Unified Development Code 168.10.U:

Any new construction, addition or other development may be approved in a special flood hazard area only if:
The applicant has provided a detailed hydrologic and hydraulic study performed by a professional engineer licensed in the state of Arkansas which delineates the floodway, 1% annual chance (100-year) floodplain boundary, and base flood elevations and demonstrates through a hydrologic and hydraulic analysis, that the development will not increase flood flows (0.0 cubic feet per second), flood heights (0.00 feet) or flood channel velocities (0.0 feet per second) on the subject property or any property upstream or downstream.

With the installation of the Retaining Wall there will be a loss of floodplain storage. There will be a slight increase in the water surface elevation upstream and at the subject cross section, however these are very minor. There will be a decrease in the up stream velocity from 10.05 to 8.65 (-1.4 ft/s), however there will be a slight increase in the velocity at the subject cross section from 10.22 to 11.35 (+1.13 ft/s). The average impact is a net decrease in channel velocity of 0.27 ft/s. It is our opinion that the installation of this retaining wall will not adversely affect Scull creek. A decrease in the channel velocity, while minor, whether is be a net increase or decrease of this much is very consistent with trail corridors along the majority of our city's impressive trail network (wherein the addition of impervious surface will increase the velocities along the streams. We are simply asking to perform work that is similar in nature to other public improvements along and in stream sides.

We also propose to remove all invasive species of undergrowth from the wall to the stream, this will aid in creating a more natural floodplain and stream restoration.

We thank you for your consideration of this proposal and please call with any questions.

Thank you.

I-1 (HEAVY COMMERCIAL AND LIGHT INDUSTRIAL)	
FRONT, WHEN ADJOINING A OR R DISTRICTS	50'
FRONT, WHEN ADJOINING C, I, OR P DISTRICTS	25'
SIDE, WHEN ADJOINING A OR R DISTRICTS	50'
SIDE, WHEN ADJOINING C, I OR P DISTRICTS	10'
REAR	25'
Height Regulations. There shall be no maximum height limits in I-1 District, provided, however, that if a building exceeds the height of two stories, the portion of the building that exceed s two stories shall have an additional setback from any boundary line of an adjacent residential district. The amount of additional setback for the portion of the building over two stories shall be equal to the difference between the total height of that portion of the building, and two stories.	
Building Area. None	

NOTES:

1. CURRENT ZONING: I-1.

2. PARCEL NUMBER: 765-13527-000.

3. BOUNDARY BASED ON PLAT OF SURVEY BY BATES & ASSOCIATES FILE AT STATE LAND SURVEYOR OFFICE FILE No. 2015124382 & DEED 2014-32525.

4. THIS PROPERTY IS AFFECTED BY THE 100 YEAR FLOOD PLAIN AS PER FIRM #05143C0210F DATED MAY 16, 2008.

5. PLAT PAGE# 328.

6. OWNER: JRG HOLDINGS LLC - PO BOX 185 - FAYETTEVILLE, AR 72702

7. ROTATION BASED ON ARKANSAS STATE PLANE GRID NORTH ZONE (NAD83).

8. ANY PROPOSED SIGNAGE WILL REQUIRE A SEPARATE SIGN PERMIT.

9. ALL UTILITIES 12KV AND UNDER SHOULD BE RELOCATED UNDERGROUND.

LEGAL DESCRIPTION:

A part of the W1/2 of the N/NE1/4 of Section 4, T16N, R30W in Washington County, Arkansas, and being described as follows: Commencing at the SE Corner of said W1/2 of the N/NE1/4, thence S87°57'08"E 27.73 feet, thence N02°12'38"E 948.03 feet to the POINT OF BEGINNING, thence N87°57'08"W 824.06 feet, thence N02°12'38"E 127.74 feet, thence N24°25'38"E 75.16 feet, thence S87°57'08"E 832.63 feet, thence S12°49'38"W 200.79 feet to the POINT OF BEGINNING. Containing 3.79 acres more or less subject to easements and right of way of record.

PARKING REQUIREMENTS
REQUIREMENT FOR OFFICE: 1 SPACE PER 300 SQ.FT. 2,800 / 300 = 9.3 SPACES ALLOWED
REQUIREMENT FOR HEAVY INDUSTRIAL: 1 SPACE PER 1,200 SQ.FT. (13,200 + 12,000) / 1,200 = 21.0 SPACES ALLOWED
9.3 + 21.0 = 30.3 SPACES ALLOWED
11 SPACES PROVIDED
ADA SPACES: 1 ADA SPACE REQUIRED 1 ADA SPACE PROVIDED
REQUIRED MOTORCYCLE/SCOOTER SPACES (1 PER 25 PARKING SPACES) 11 / 25 = 1 M/C SPACE REQUIRED 1 M/C SPACE PROVIDED
BIKE RACKS FOR RESIDENTIAL (1 PER 20 PARKING SPACES) 11 / 20 = 0.55 BIKE RACKS REQUIRED 1 BIKE RACK PROVIDED

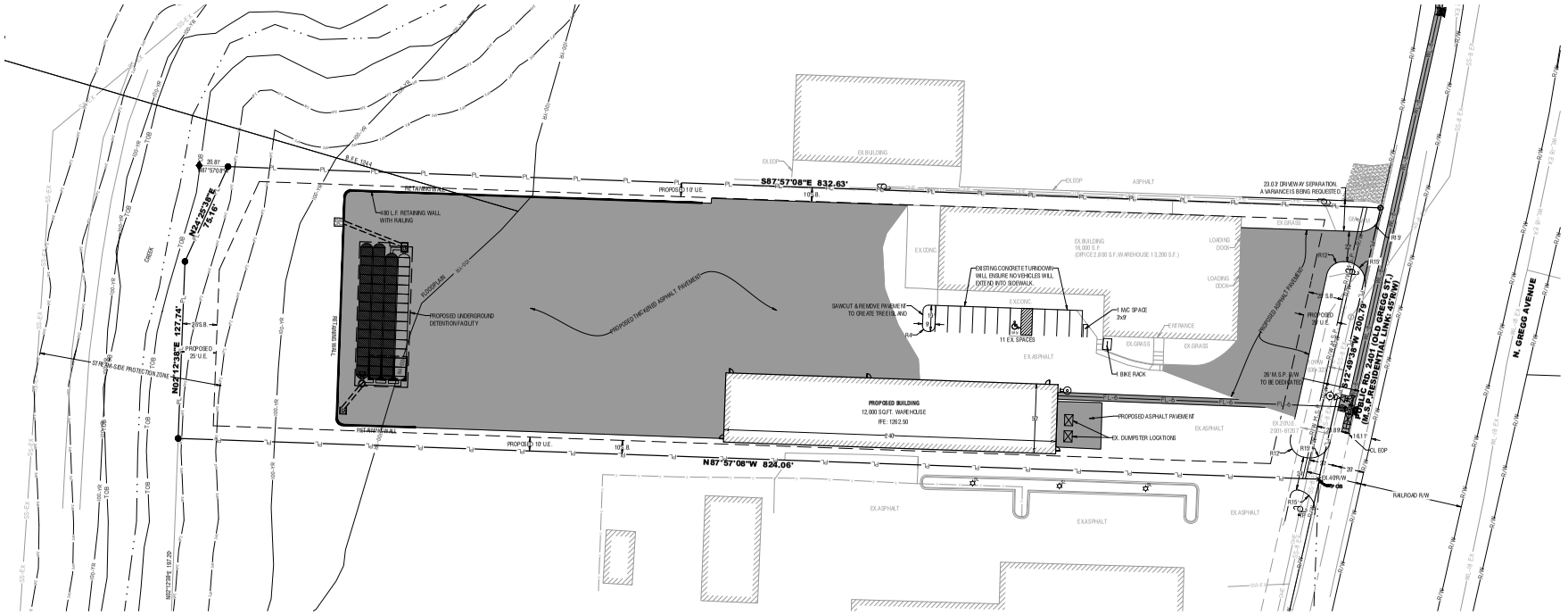
SITE AREA CALCULATIONS			
TOTAL AREA:	3.79 AC	165,200 S.F.	
PREDEVELOPMENT			
BUILDING:	0.52 AC	22,820 S.F.	13.81%
PARKING/SIDEWALK:	0.70 AC	30,708 S.F.	18.59%
GRAVEL:	0.56 AC	24,384 S.F.	14.76%
TOTAL IMPERVIOUS:	1.79 AC	77,912 S.F.	47.16%
PERVIOUS GREENSPACE:	2.00 AC	87,288 S.F.	52.84%
POSTDEVELOPMENT			
BUILDING:	0.64 AC	28,000 S.F.	16.95%
PARKING/SIDEWALK:	2.28 AC	99,317 S.F.	60.12%
GRAVEL:	0.00 AC	0 S.F.	0.00%
TOTAL IMPERVIOUS:	2.92 AC	127,317 S.F.	77.07%
PERVIOUS GREENSPACE:	0.87 AC	37,883 S.F.	22.93%

OWNER:

JRG HOLDINGS LLC
PO BOX 185
FAYETTEVILLE, AR 72702

GRAPHIC SCALE

(IN FEET)
1 inch = 40 ft.



JORGENSEN + ASSOCIATES
Civil Engineering • Surveying • Land Development
124 W Sunbridge Drive, Suite 5
Fayetteville, AR 72703
www.jorgensenassociates.com

Planning Commission
March 27, 2023

LEGEND

- CALCULATED POINT
- FOUND RAILROAD SPIKE
- SET IRON PIN & CAP
- POWER POLE
- CENTERLINE MARKER
- SEWER MANHOLE
- FIRE HYDRANT
- STREET LIGHT
- EXISTING 8" SEWER LINE
- PROPOSED 8" SEWER LINE
- EXISTING WATERLINE
- PROPOSED 8" WATER LINE
- CENTERLINE STREET
- BUILDING SETBACK
- UTILITY EASEMENT
- NEW SIDE WALK
- UTILITY CROSSING
- EXISTING CONTOUR
- FINISHED CONTOUR

PROJECT DETAILS

PROJECT TITLE:
2373 GREGG

PROJECT LOCATION:
FAYETTEVILLE, AR

REVISIONS

DATE: 10.25.2022
DRAWN BY: PMM
PROJECT # 2022141
FILE PATH: Z:\LSD\2022141\DWG
SHEET SIZE: 22" x 34"
SCALE: 1" = 40'

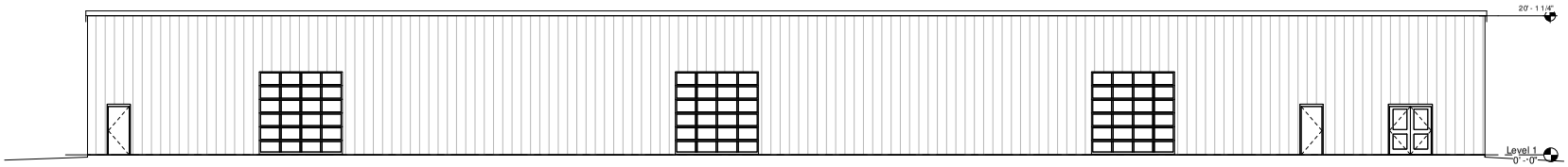
CERTIFICATE OF AUTHORIZATION
JORGENSEN & ASSOCIATES
No. 725
ARKANSAS — ENGINEER

SHEET TITLE

LARGE SCALE DEVELOPMENT PLAN

SHEET NUMBER

C1.02



North Elevation
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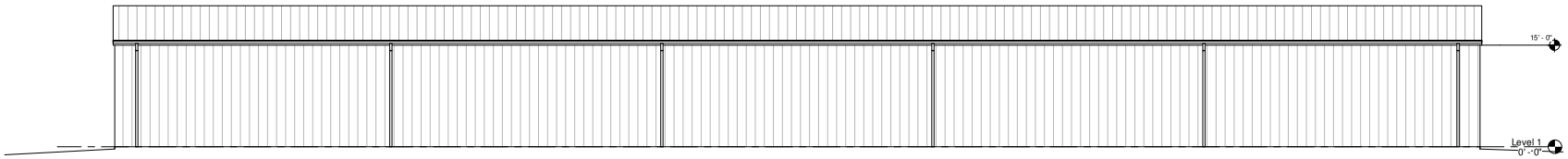

South Elevation
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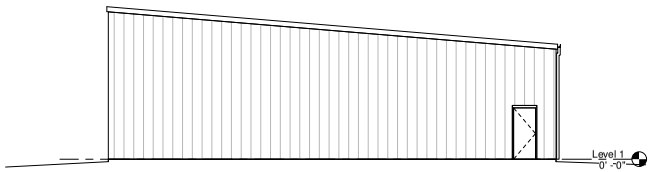

West Elevation
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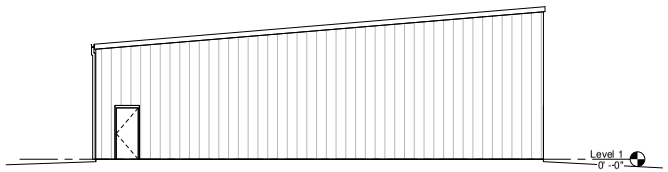


East Elevation
scale 1/8" = 1'-0"

rh Designs
5413 Fireplace Dr.
403.841.5541

Concrete Solutions

10.10.2022

NOT FOR CONSTRUCTION

Exterior Elevations

A3

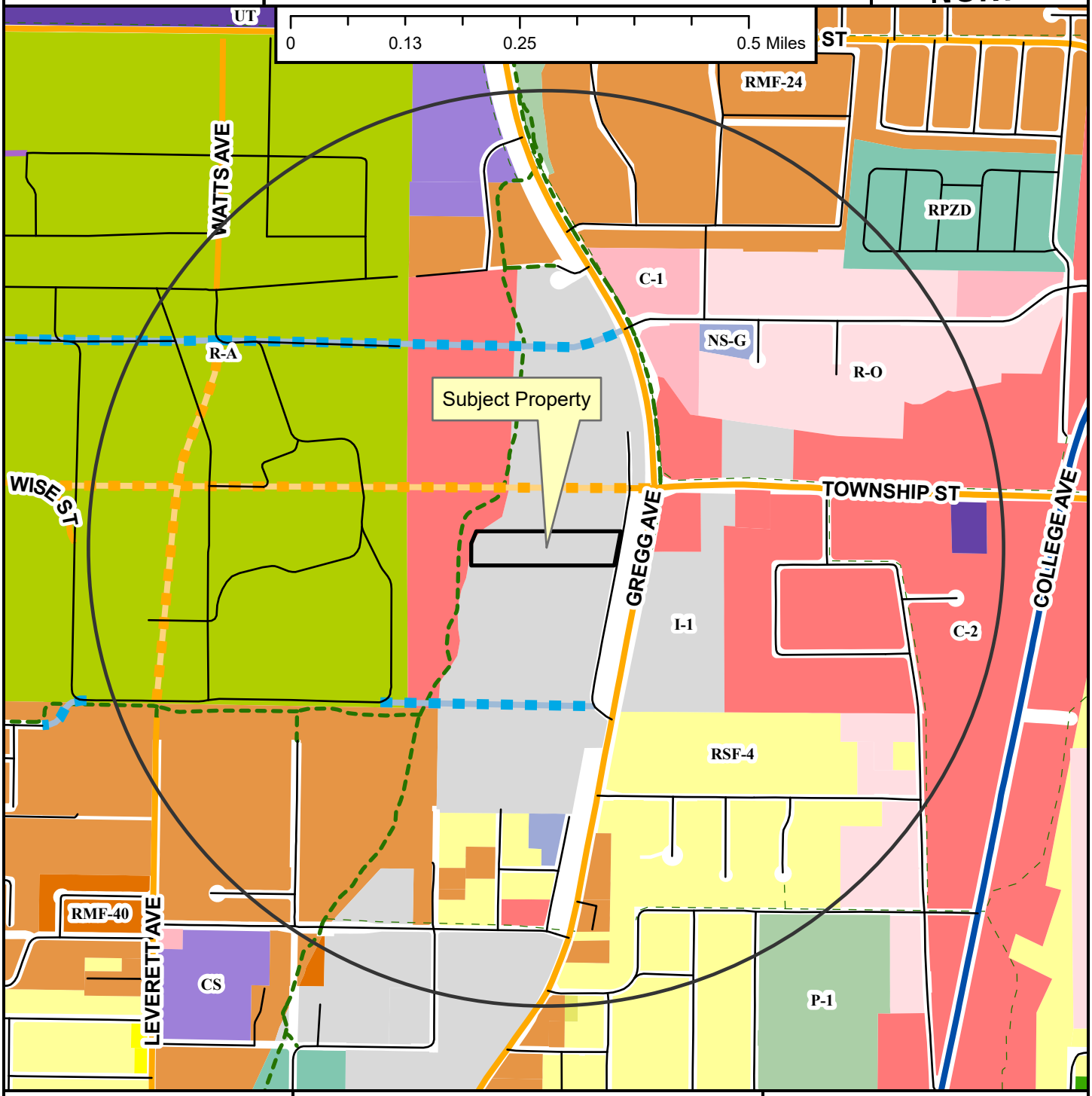
copyright 2022

LSD-2023-0001

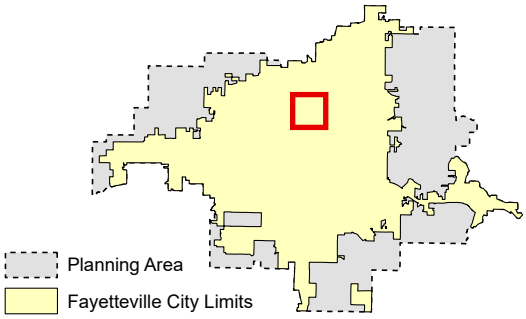
One Mile View

2373 N. GREGG AVE

NORTH



- Neighborhood Link
- Institutional Master Plan
- Regional Link - High Activity
- Unclassified
- Residential Link
- Planned Neighborhood Link
- Planned Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Fayetteville City Limits
- Planning Area



Zoning

RESIDENTIAL SINGLE-FAMILY
NS-G
RI-U
RI-12
NS-L
Residential-Agricultural
RSF-.5
RSF-1
RSF-2
RSF-4
RSF-7
RSF-8
RSF-18

RESIDENTIAL MULTI-FAMILY
RMF-6
RMF-12
RMF-18
RMF-24
RMF-40

INDUSTRIAL
I-1 Heavy Commercial and Light Industrial
I-2 General Industrial

EXTRACTION
E-1

COMMERCIAL
Residential-Office
C-1
C-2
C-3

FORM BASED DISTRICTS
Downtown Core
Urban Thoroughfare
Main Street Center
Downtown General
Community Services
Neighborhood Services
Neighborhood Conservation

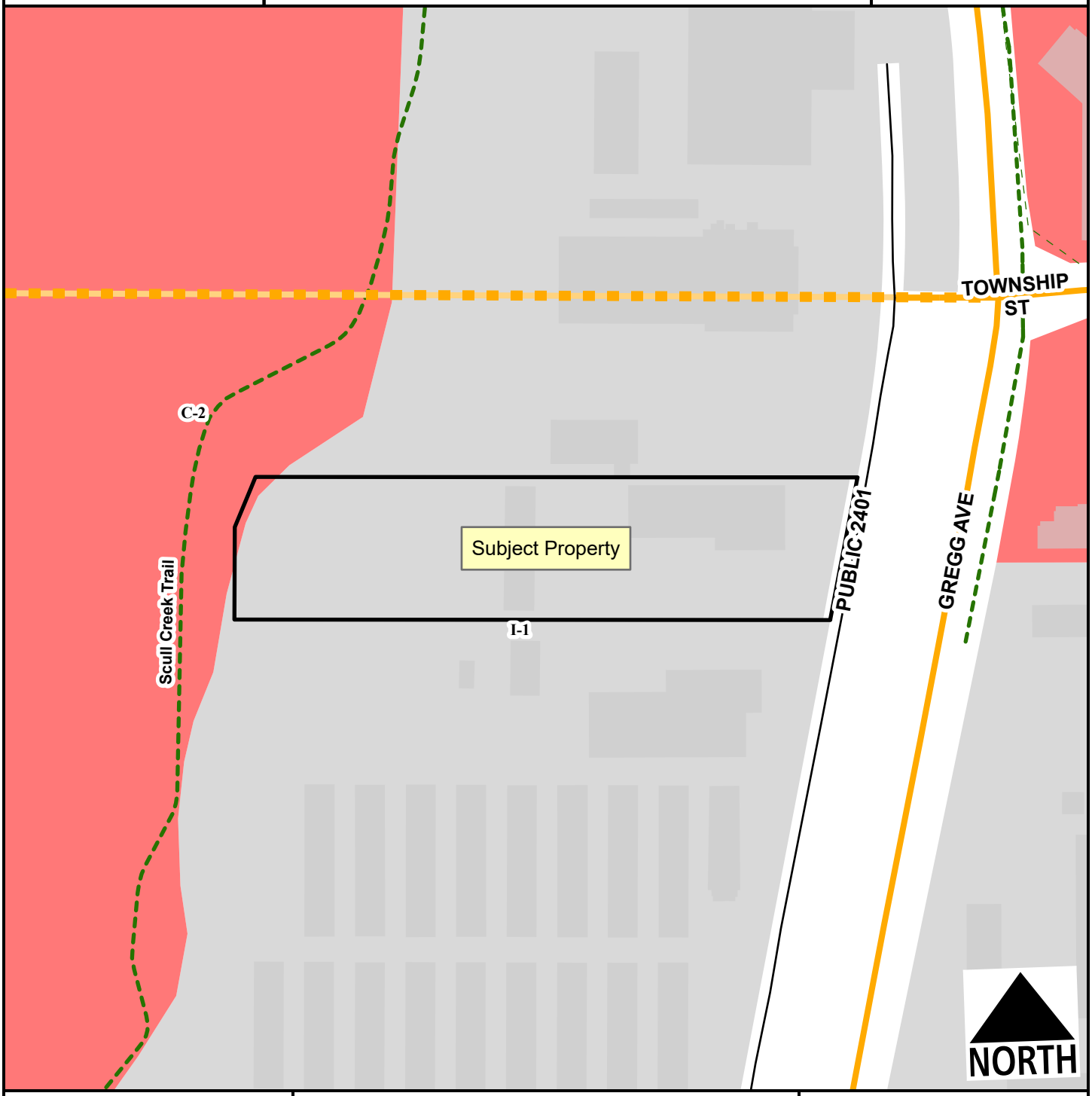
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

LSD-2023-0001

Close Up View

2373 N. GREGG AVE



Neighborhood Link
Residential Link
Planned Neighborhood Link
Planning Area
Fayetteville City Limits
Shared-Use Paved Trail
Trail (Proposed)

Feet

0 75 150 300 450 600

1:2,400

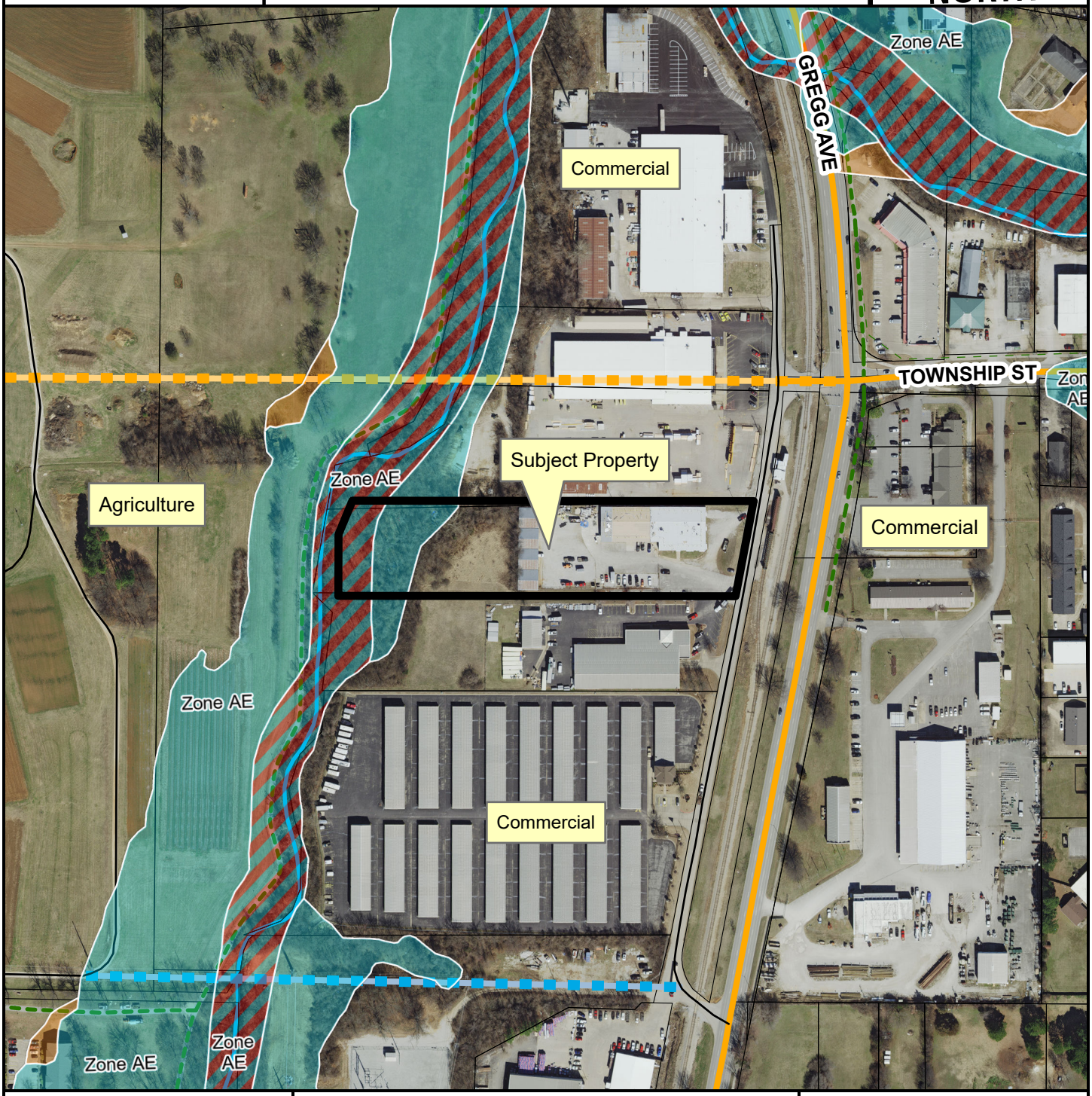
I-1 Heavy Commercial and Light Industrial
C-2

LSD-2023-0001

Current Land Use

2373 N. GREGG AVE

NORTH



- Neighborhood Link
- Unclassified
- Residential Link
- Planned Neighborhood Link
- Planned Residential Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: March 13, 2023

SUBJECT: **CUP-2023-0023: Conditional Use Permit (704 S WASHINGTON AVE./ GARDEN DISTRICT TOWNHOMES LLC, 669):** Submitted by BOTTLE ROCKET SUBS, LLC for property located at 704 S. WASHINGTON AVE. The property is zoned DG, DOWNTOWN GENERAL and contains approximately 0.90 acres. The request is for Use Unit 14: Hotel, Motel, and Amusement Services in DG zoning.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0023** with conditions as outlined by staff.

RECOMMENDED MOTION:
"I move to approve **CUP-2023-0023** with conditions, determining:

- In favor of compatibility with adjacent properties, and
- In favor of all other conditions as recommended by staff."

MARCH 13, 2023 PLANNING COMISSION MEETING:
The project was tabled at the applicant's request at the March 13, 2023 Planning Commission meeting to the March 27, 2023 agenda.

BACKGROUND:
The subject property is located in south Fayetteville at the southwest corner of the intersection of S. Washington Ave. and E. 7th St. The two parcels are currently developed with a 1,438 square foot restaurant (Margaret's Culinary), a 1,128 square foot restaurant (Bottle Rocket Subs), a food truck, and associated parking and seating areas. The two parcels total approximately 0.9 acres and are zoned DG, Downtown General. The property is also part of the Walker Park Neighborhood Master Plan. Surrounding land uses and zoning are provided in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Jefferson Park	DG, Downtown General
South	Single-Family Residential	NC, Neighborhood Conservation
East	Single-Family Residential	NC, Neighborhood Conservation
West	Single-Family Residential	DG, Downtown General

City Plan 2040 Future Land Use Designation: City Neighborhood Area

Request: The applicant requests a conditional use permit to renovate a shipping container for use as a tavern on the northwest corner of the property. Taverns are classified as Use Unit 14, which is a conditional use in the DG, Downtown General zoning district. The following specifications were included with the request:

- Size of the business: Approximately 160 square feet
- Hours of operation: 7:00 AM - 12:00 AM Daily
- Parking: Thirteen (13) Vehicle Spaces
- Number of employees: 4-8 Employees

Public Comment: Staff has not received any public comment regarding the proposed request.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0023** based on the findings in this report, with the following conditions.

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed tavern to be compatible with the neighborhood based on the findings in this report;*

2. **This conditional use permit is limited to the use for a tavern as described in the applicant's request letter. This conditional use permit is non-transferrable to a different business or property owner. The following specifications apply:**
   - Size of the business: Approximately 160 square feet
   - Hours of operation: 7:00 AM – 10:00 PM Daily
   - Parking: Thirteen (13) Vehicle Spaces
   - Number of employees: 4-8 Employees

3. **Planning Commission determination of Off-Site Parking §172.06(C), Off-Site Locations.** An access easement shall be required for the use of off-site parking spaces and refuse service area located on adjacent parcel.

4. **Applicant to construct or pay a fee-in-lieu for sidewalk along S. Washington Ave and E. 7th St. on PID 765-05710-100 according to the Master Street frontage requirements per Chapter 171.13(B)(5).**

5. **One vehicle entry each shall be permitted onto S. Washington Ave and E. 7th St to be paved a minimum of 18 feet from the curb.**

6. **Per Chapter 172.04(B)(2), an implied or physical barrier shall be installed between pedestrian and vehicular areas of the site.**

7. **Landscape screening shall be planted between vehicular drive and adjacent residential property to the south, and around trash and recycling enclosure. Plant species to be coordinated with urban forestry.**

8. **Compliance with relevant design standards will be reviewed for at the time of building permit.**

9. **Approval of this conditional use permit does not ensure approval of a development application. The conditional use permit grants the applicant rights to submit a development proposal based on the conceptual layout included herein. The**

applicant shall comply with all other development requirements, including but not limited to, tree preservation, drainage, exterior lighting, utility installation, and Fire Department access standards. These details shall be reviewed with the development application;

10. **A business license shall be obtained for the proposed business at this location prior to occupancy of the property;**

11. **Any future expansion or change in the use shall require Planning Commission approval; and**

12. **Signs shall be limited to those permitted by UDC §174. Any proposed signage shall be reviewed for compliance with the underlying zoning district and shall be permitted by a separate sign permit prior to installation.**

PLANNING COMMISSION ACTION:	**Required**	**YES**	
Date: March 27, 2023	**❒ Tabled**	**❒ Approved**	**❒ Denied**
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.

2. Decide such questions as are involved in determining whether a conditional use should be granted; and,

3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or

4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

C. A conditional use shall not be granted by the Planning Commission unless and until:

1. A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.

Finding: The applicant has submitted a written application requesting a conditional use permit for Use Unit 14 in the DG zoning district.

2. The applicant shall pay a filing fee as required under Chapter 159 to cover the cost of expenses incurred in connection with processing such application.

Finding: The applicant has paid the required filing fee.

3. The Planning Commission shall make the following written findings before a conditional use shall be issued:

(a.) That it is empowered under the section of this chapter described in the application to grant the conditional use; and

Finding: The Planning Commission is empowered under Unified Development Code §161.28 to grant the requested conditional use permit.

(b.) That the granting of the conditional use will not adversely affect the public interest.

Finding: Staff finds that granting the requested conditional use is unlikely to adversely affect the public interest if improvements are made to clearly delineate vehicular and pedestrian circulation and seating areas within the site. Given the cumulative effects of the development on the property, additional development without parking lot and pedestrian improvements has the potential to negatively impact the surrounding properties, particularly if the site sees the anticipated 100 patrons per day with 50 at peak evening hours. However, the DG zoning district is a flexible zone, and activities include a flexible and dynamic range of uses, from public open spaces to less intense residential development and businesses. The proposed use is compatible with this zoning district and with adjacent food and beverage businesses on the property. The Walker Park Neighborhood Plan calls encourages a wide range of neighborhood compatible uses while at the same time improving multimodal transportation and walkability. Given the proximity of the Jefferson Building directly northeast of the intersection, staff recommends that the Commission consider reduced hours on weeknights to mitigate impact to adjacent residents.

(c.) The Planning Commission shall certify:

(1.) Compliance with the specific rules governing individual **conditional uses; and**

Finding: Section 164.18 includes separation requirements for retail liquor stores but not for taverns.

(2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:

(a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: **Per the submitted site plan, access to the property is proposed by two existing curb cuts on S. Washington Ave. and E. 7th St. Due to Chapter 166.08 (G), any non-conforming parking features are required to be brought into conformance with the construction of a new primary structure on the parcels. Approximately 50% of the western property line consists of gravel parking entry to S. Washington Ave (80' total) with two distinct entrances less than 25' apart. Per Chapter 166.08(F)(2)(1), curb cuts must be located at least 50' from an intersection or driveway. Given the addition of a fourth business on these two parcels, staff recommends that improvements be made to the site to clearly delineate pedestrian and vehicle spaces, including paving vehicular entries and adding an implied or physical barrier between pedestrian and vehicle areas. Further, as the applicant states that they anticipate their patrons to be primarily pedestrians, cyclists or scooter users, staff recommends the applicant construct sidewalk along S. Washington Ave and E. 7th St. on the parcel frontage according to the Master Street frontage requirements. Staff is also supportive of a fee-in-lieu (approximately 285 linear feet x $5 per foot = $1,425).**

(b.) Off-street parking and loading areas where required, with particular attention to ingress and egress, economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

Finding: **A twenty-foot platted alley is located between the two parcels on which one entry is shared, and thirteen (13) parking spaces are proposed to be shared by all business of the development. Four (4) parking spaces are located on the adjacent parcel to the east and a private access easement will be needed in order to ensure continued access should the adjacent parcel be sold. Planning Commission approval is required for off-site parking.——**

(c.) Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading,

Finding: **A dumpster and recycling area is designated in the southwest corner of the adjacent parcel. As the refuse area is located on an adjacent parcel, staff recommends a private easement be provided to ensure continued access should the adjacent parcel be sold.**

(d.) Utilities, with reference to locations, availability, and compatibility;

Finding: **The property has access to City water and sewer.**

(e.) Screening and buffering with reference to type, dimensions, and character;

Finding: **The subject property is located adjacent to residential properties to the east, west, and south. Screening is proposed in the NW corner surrounding the tavern via "metal, natural stone, concrete, wood, and various natural plants" for 50 feet along A Washington Ave. and 70 feet along E 7th St. Staff recommends screening of a similar nature around the dumpster enclosure and between the gravel drive and southern property line to screen the residential properties to the south.**

(f.) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

Finding: **Any proposed signage will be subject to UDC §174 and all the regulations therein.**

(g.) Required yards and other open space; and

Finding: **Based on the applicant's submittal, the development is meeting the build-to zone requirements of the Downtown General zoning district.**

(h.) General compatibility with adjacent properties and other property in the district.

Finding: **Staff finds that the proposed tavern facility is compatible with adjacent properties. The Jefferson Center is now under private ownership and the Walker Park Neighborhood Plan encourages the addition of neighborhood businesses to the area. The project is located within a property currently utilized for food services by multiple business, and staff finds that conditions requiring improvements to pedestrian and vehicle access could mitigate increased traffic demand. Further, the use may provide convenient access to new services for persons living in the surrounding residential area.**

BUDGET/STAFF IMPACT:
None

Attachments:

- Unified Development Code
  - §161.28 – Downtown General
- Walker Park Master Plan Exhibit
- Applicant Request Letter
- Site Plan
- Site Photographs
- Staff Exhibit: Additional Photographs
- Tavern Location and Screening Exhibit

- Floor Plan and Building Elevations Exhibit
- One Mile Map
- Close-Up Map
- Current Land Use Map

161.28 Downtown General

(A) *Purpose.* Downtown General is a flexible zone, and it is not limited to the concentrated mix of uses found in the Downtown Core or Main Street/Center. Downtown General includes properties in the neighborhood that are not categorized as identifiable centers, yet are more intense in use than Neighborhood Conservation. There is a mixture of single-family homes, rowhouses, apartments, and live/work units. Activities include a flexible and dynamic range of uses, from public open spaces to less intense residential development and businesses. For the purposes of Chapter 96: Noise Control, the Downtown General district is a residential zone.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 40	Sidewalk Cafes
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 45	Small scale production
Unit 46	Short-term rentals

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 14	Hotel, motel and amusement services
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 19	Commercial recreation, small sites
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communication facilities

(C) *Density.* None.

(D) *Bulk and Area Regulations*.

(1) *Lot Width Minimum.*

Dwelling (all unit types)	18 feet

(2) *Lot Area Minimum.* None.

(E) *Setback Regulations*.

Front	A build-to zone that is located between the front property line and a line 25 feet from the front property line.
Side	None
Rear	5 feet
Rear, from center line of an alley	12 feet

(F) *Minimum Buildable Street Frontage.* 50% of lot width.

(G) *Building Height Regulations.*

Building Height Maximum	5 stories

(Ord. No. 5028, 6-19-07; Ord. No. 5029, 6-19-07; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5735, 1-20-15; Ord. No. 5800 , §1(Exh. A), 10-6-15; Ord. No. 5921 , §1, 11-1-16; Ord. No. 5945 , §§5, 7—9, 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6223 , §1, 9-3-19; Ord. No. 6427 , §§1(Exh. C), 2, 4-20-21)

Ord. No. 6427 , § 2, adopted April 20, 2021, "determines that this ordinance and all amendments to Code sections ordained or enacted by this ordinance shall automatically sunset, be repealed, terminated, and become void twenty (20) months after the passage and approval of this ordinance, unless prior to that date, the City Council amends this ordinance to repeal this sunset, repeal and termination section."

WALKER PARK NEIGHBORHOOD MASTER PLAN EXHIBIT

Proposed Streets and Sidewalks

4th Street Extension. A large undeveloped tract of land is located in the interior of a large block. The illustrative plan extends 4th Street from Willow Avenue to Wood Avenue, allowing for infill opportunities.

Jefferson Square. Extending Washington Avenue through the school property connecting 6th and 7th Streets will distinguish this area as the core of the neighborhood. A one-way traffic flow pattern with adjacent parking will serve as a traffic calming technique.

Street Connections to the western boundary of the park. Extensions of 9th and 13th Street would open the park to access from South School Avenue.

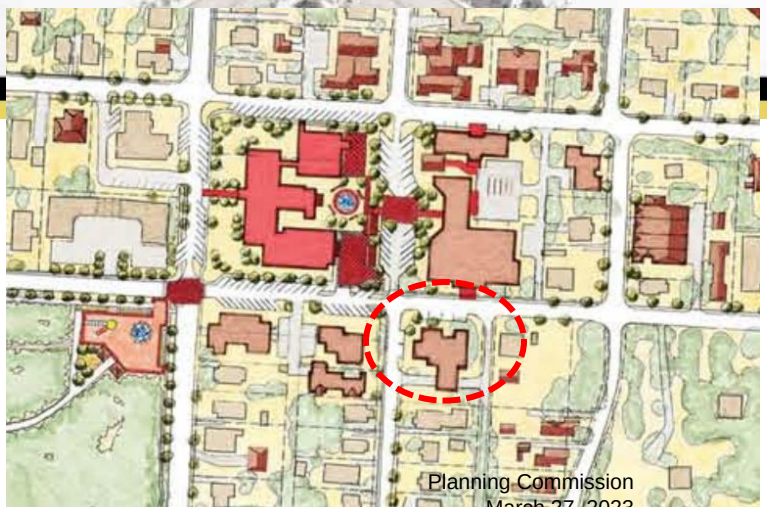
Janelle and 9th Street. Extensions of these streets provide access to an undeveloped area just east of Wood Avenue.

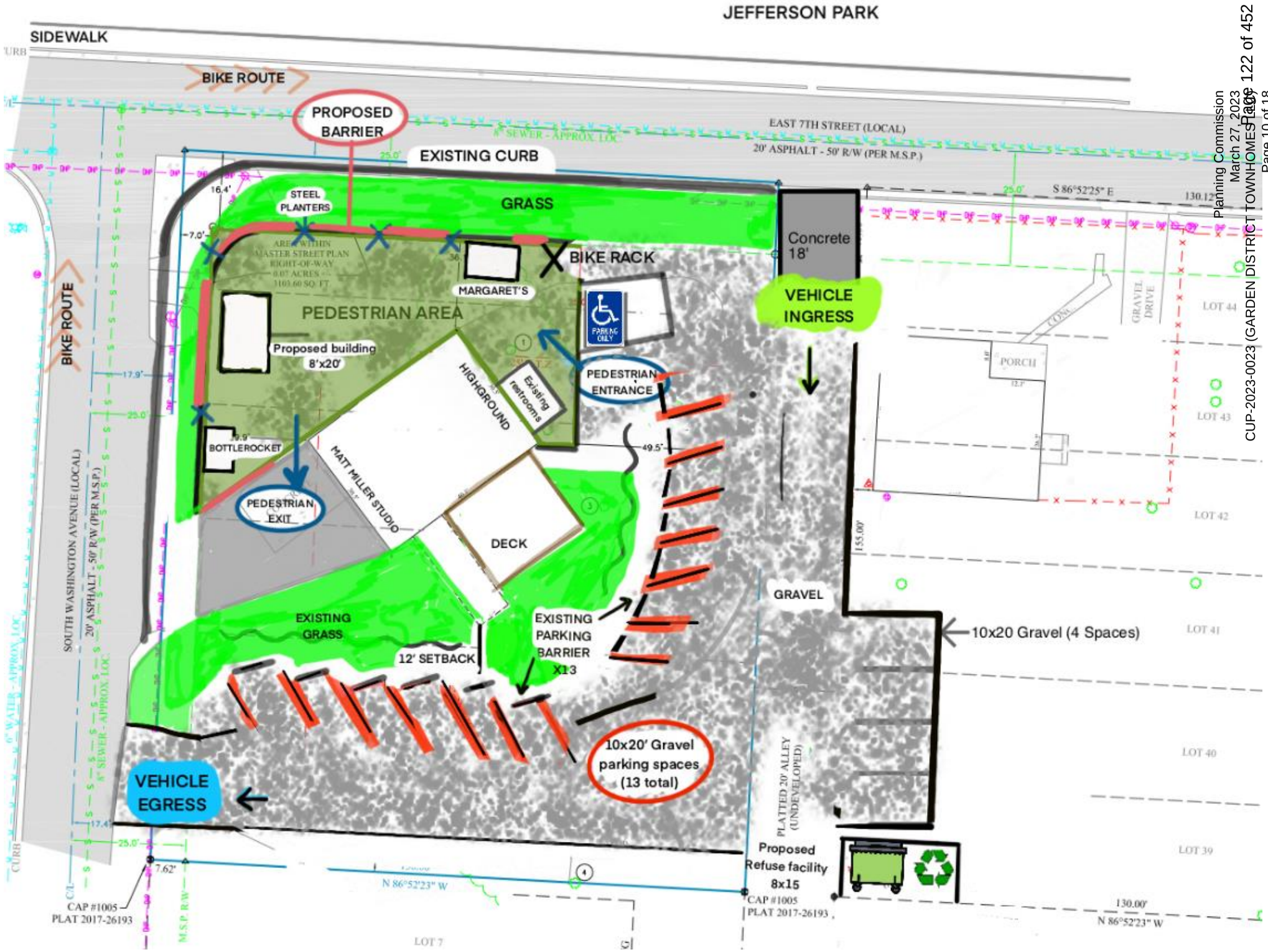
The original concept of Jefferson Square was developed by a local architect, Rob Sharp, who completed the work for the Jefferson Project board. The charrette team utilized this concept, showing the extension of Washington Avenue between 6th and 7th Streets in order to form a square. Extending Washington Avenue provides enhanced access to the current property and allows for the development of a mixed-use structure east of the Washington Avenue extension. Bringing a combination of residents and neighborhood business to this area will bring life to the Square, adding vibrancy and securing the area as a core of the neighborhood.

On-street parking was added to all four sides of Jefferson Square as well as the idea that traffic would travel only one-way around the square, similar to the way the Downtown Square traffic circulates. The one-way traffic flow will function as traffic calming for 6th Street, forcing traffic to move slowly and likely directing through semi-truck traffic to 15th Street.

How the Jefferson Building ultimately is used will be determined by the Fayetteville School District, the availability of funding to the Jefferson Project group or the private sector. However, the proposed design would make the building a centerpiece for the neighborhood and honor the history of the school as well as the neighborhood. The design also makes the area an asset to the recently created Cultural Arts District, which encompasses the Jefferson Building.

Jefferson Square Concept Drawing



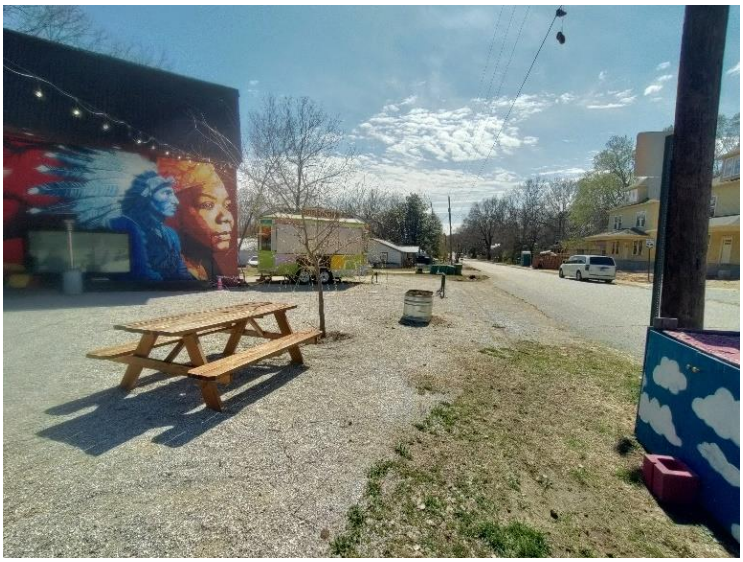

JEFFERSON PARK
SIDEWALK
BIKE ROUTE
PROPOSED BARRIER
EXISTING CURB
EAST 7TH STREET (LOCAL)
20' ASPHALT - 50' R/W (PER M.S.P.)
8" SEWER - APPROX. LOC.
STEEL PLANTERS
GRASS
BIKE RACK
MARGARET'S
PEDESTRIAN AREA
Proposed building 8'x20'
BOTTLEROCKET
PEDESTRIAN EXIT
PEDESTRIAN ENTRANCE
HIGHGROUND
Existing restrooms
MATT MILLER STUDIO
DECK
EXISTING GRASS
12' SETBACK
EXISTING PARKING BARRIER X13
10x20' Gravel parking spaces (13 total)
VEHICLE EGRESS
VEHICLE INGRESS
Concrete 18'
GRAVEL
10x20 Gravel (4 Spaces)
Proposed Refuse facility 8x15
PLATTED 20' ALLEY (UNDEVELOPED)
SOUTH WASHINGTON AVENUE (LOCAL)
20' ASPHALT - 50' R/W (PER M.S.P.)
6" WATER - APPROX. LOC.
8" SEWER - APPROX. LOC.
CAP #1005
PLAT 2017-26193
M.S.P. R/W
N 86°52'23" W
S 86°52'25" E
130.12'
130.00'
155.00'
49.5'
LOT 44
LOT 43
LOT 42
LOT 41
LOT 40
LOT 39
LOT 7
PORCH
GRAVEL DRIVE
PARKING ONLY

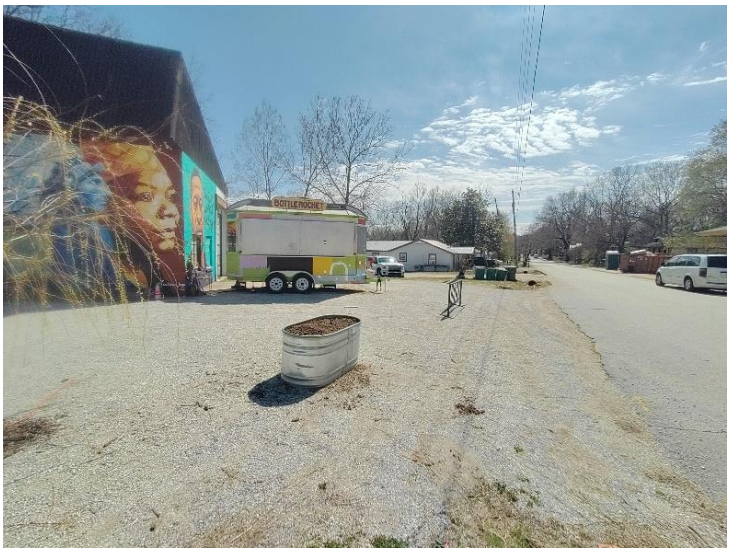
SOUTH PROPERTY LINE LOOKING WEST

SOUTH PROPERTY LINE LOOKING EAST

SOUTHEAST CORNER LOOKING NORTH, PHOTOS ONE AND TWO

ADDITIONAL STAFF PHOTOGRAPHS

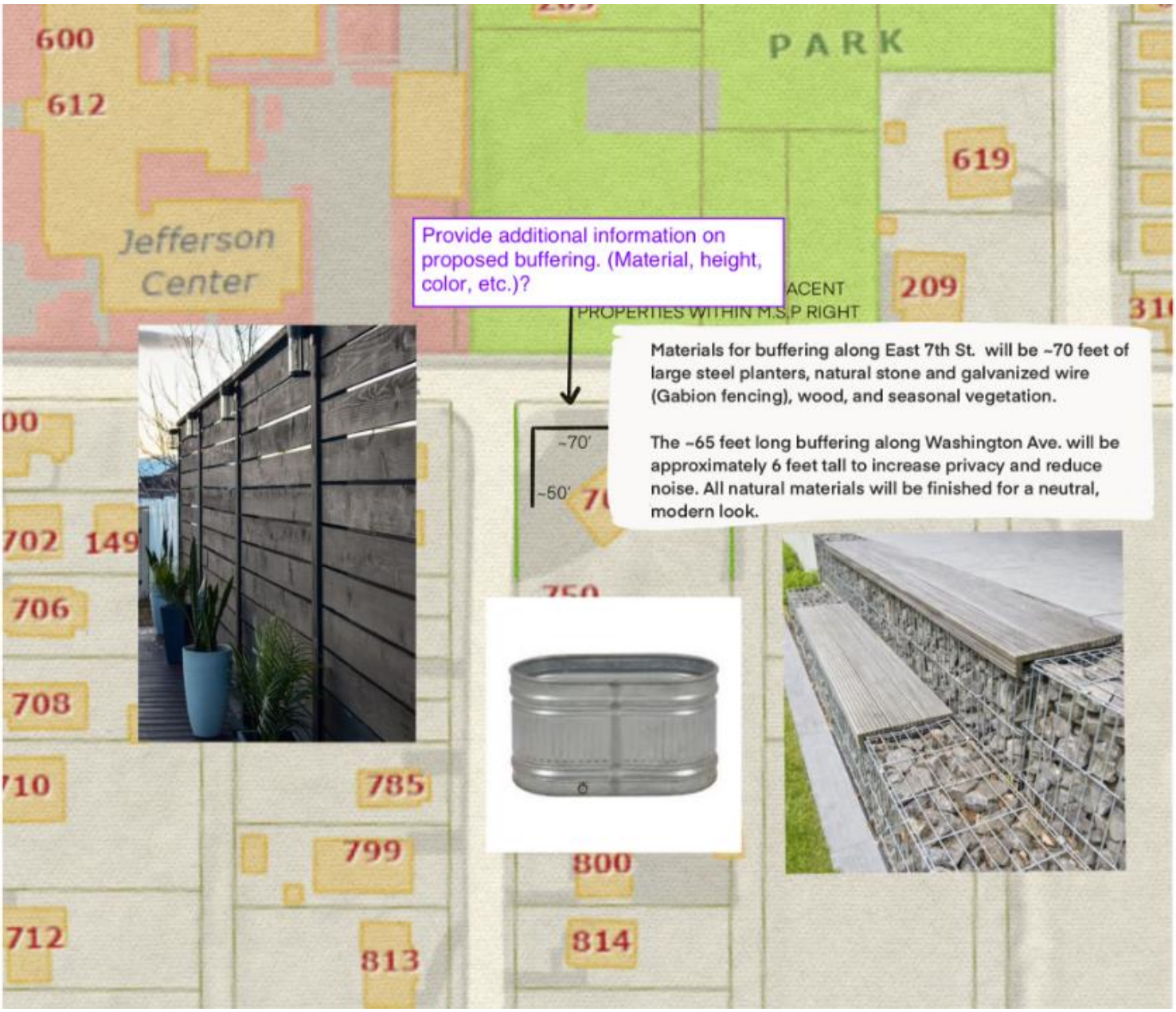




LOOKING SOUTH ON S. WASHINGTON AVE (PHOTOS ONE AND TWO)

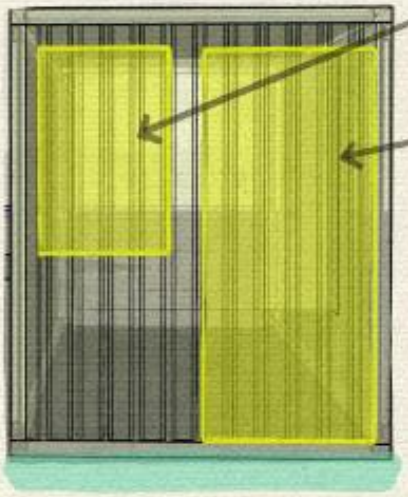
LOOKING WEST ON E. 7TH ST.

LOOKING EAST ON E. 7TH ST.


600
612
PARK
619
Jefferson Center
209
Provide additional information on proposed buffering. (Material, height, color, etc.)?
ACENT
PROPERTIES WITHIN M.S.P RIGHT
Materials for buffering along East 7th St. will be ~70 feet of large steel planters, natural stone and galvanized wire (Gabion fencing), wood, and seasonal vegetation.
The ~65 feet long buffering along Washington Ave. will be approximately 6 feet tall to increase privacy and reduce noise. All natural materials will be finished for a neutral, modern look.
~70'
~50'
702
149
706
708
710
785
799
800
712
813
814

COLOR ELEVATIONS AND PRIMARY CUTS

Total elevation of structure= ~9'



SIDE WINDOW
3'WX5'H

SERVICE DOOR 3' W X
6.5' H

DIMENSIONS OF CONTAINER

INTERNAL LENGTH	19 FT.	4	13/64	IN	5898 MM
INTERNAL WIDTH	7 FT.	8	19/32	IN	2352 MM
INTERNal HEIGHT	7 FT.	10	7/32	IN	2393 MM
DOOR OPENING WIDTH.	7 FT.	8	1/8	IN	2340 MM
DOOR OPENING HEIGHT	7 FT.	5	49/64	IN	2280 MM

MODEL NO.: NL20C-081A

MATERIAL IS REFURBISHED AND PAINTED CORRUGATED STEEL

COLOR AND DESIGN AIMS FOR NEUTRAL, SUSTAINABLE, AND MODERN

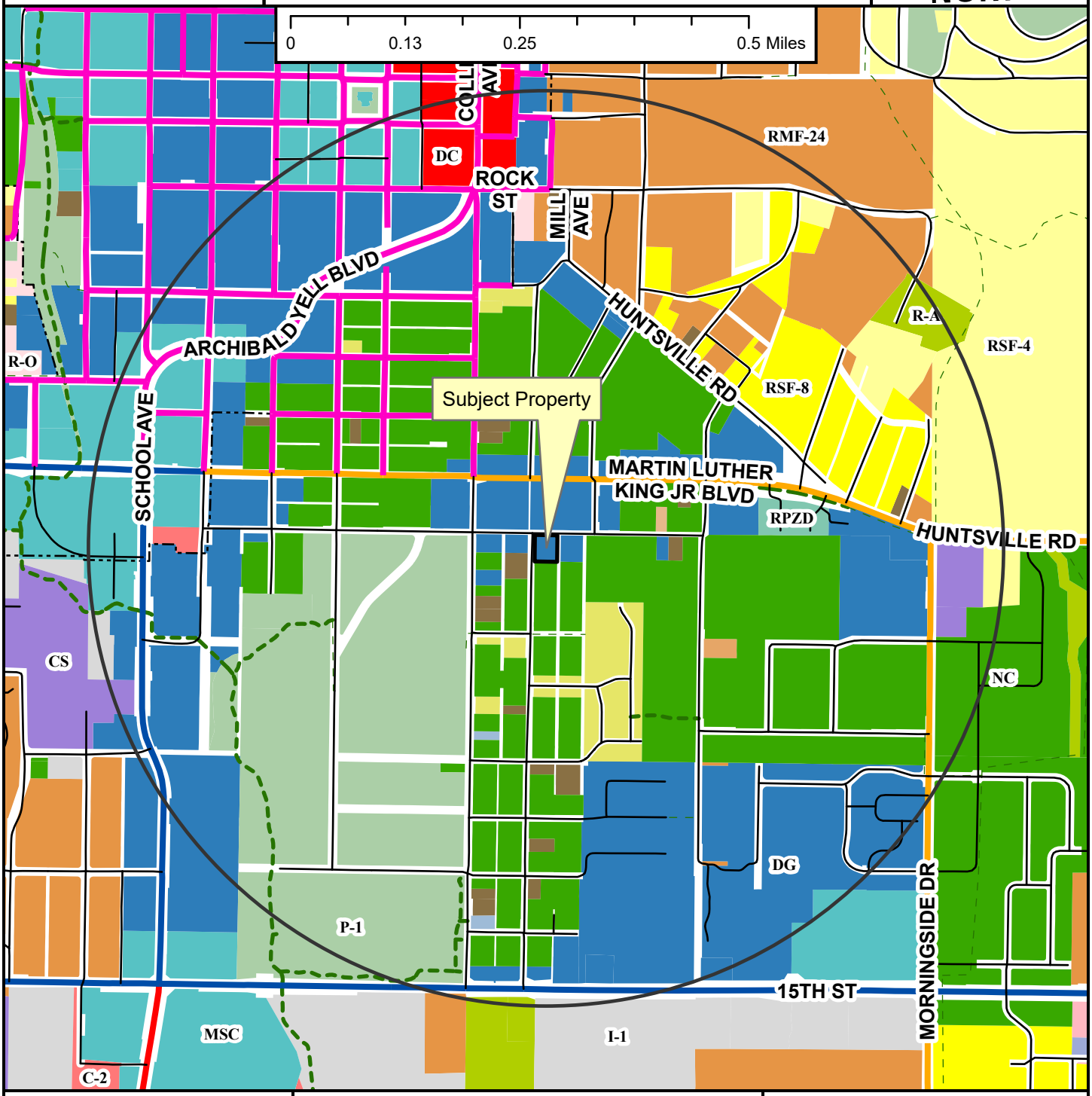
BREAKER BOX
SERVICE DOOR
RELIEF WINDOW
HANDWASHING SINK
WH
MAIN WINDOW
STORAGE
L
L
L
MAIN INTERIOR LIGHTS
THREE COMPARTMENT SINK
COUNTER/SERVICE BAR
REFRIGERATOR
DW
SLOPED DRAIN
EXISTING CARGO DOORS

CUP-2023-0023

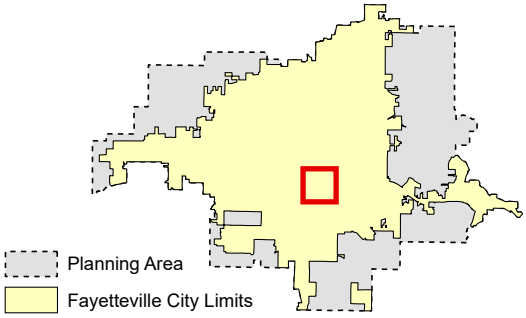
One Mile View

704 S. Washington Ave

NORTH



- Regional Link
- Neighborhood Link
- Regional Link - High Activity
- Urban Center
- Unclassified
- Alley
- Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Fayetteville City Limits
- Planning Area



Zoning

RESIDENTIAL SINGLE-FAMILY
- NS-G
- RI-U
- RI-12
- NS-L
- Residential-Agricultural
- RSF-.5
- RSF-1
- RSF-2
- RSF-4
- RSF-7
- RSF-8
- RSF-18

RESIDENTIAL MULTI-FAMILY
- RMF-6
- RMF-12
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- RMF-40

INDUSTRIAL
- I-1 Heavy Commercial and Light Industrial
- I-2 General Industrial

EXTRACTION
- E-1

COMMERCIAL
- Residential-Office
- C-1
- C-2
- C-3

FORM BASED DISTRICTS
- Downtown Core
- Urban Thoroughfare
- Main Street Center
- Downtown General
- Community Services
- Neighborhood Services
- Neighborhood Conservation

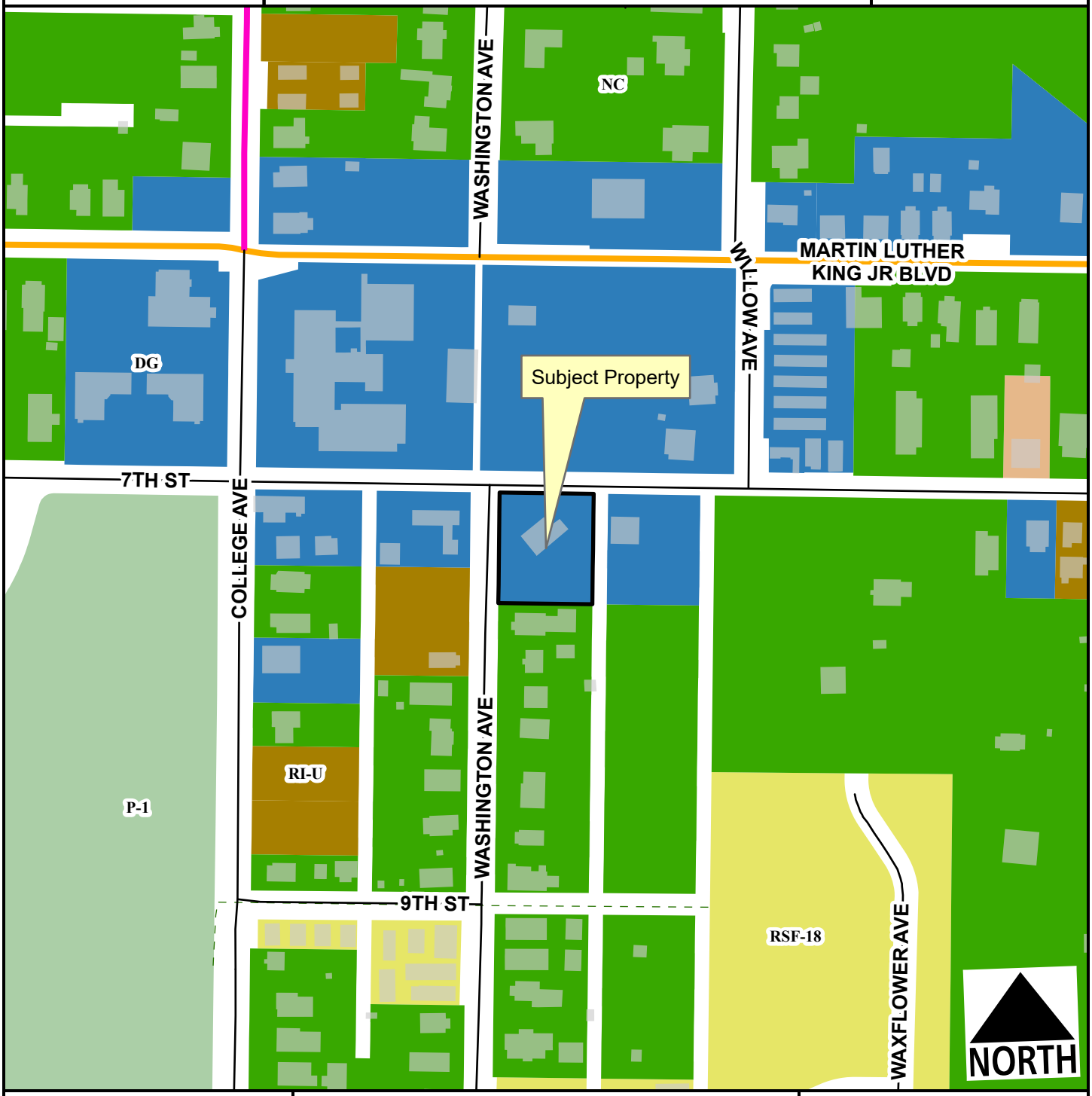
PLANNED ZONING DISTRICTS
- Commercial, Industrial, Residential

INSTITUTIONAL
- P-1

CUP-2023-0023

Close Up View

704 S. Washington Ave



- Neighborhood Link
- Urban Center
- Unclassified
- Residential Link
- Planning Area
- Fayetteville City Limits
- Trail (Proposed)

Feet

0 75 150 300 450 600

1:2,400

- RSF-18
- RI-U
- RMF-12
- Downtown General
- Neighborhood Conservation
- P-1

CUP-2023-0023

Current Land Use

704 S. Washington Ave

- Neighborhood Link
- Urban Center
- Unclassified
- Alley
- Residential Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits
- Design Overlay District

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

FROM: Long Range Planning Committee
Sherry Marie Smith, Long Range & Preservation Planner

MEETING DATE: March 27, 2023

SUBJECT: **ADM-2023-0001: Administrative Item (Amend UDC Chapter 151 Definitions, Chapter 161 - Zoning Regulations and Chapter 166 - Urban Design Standards)** Submitted by CITY OF FAYETTEVILLE STAFF. The request is to amend Chapter 151 - Definitions, Chapter 161 - Zoning Regulations and Chapter 166 – Development: 166.08 Street Design and Access Management Standards and 166.23 Urban Residential Design Standards to be consistent with Chapter 162 – Use Units. The purpose of the proposed amendment is to provide consistent and clear language for two-family, three-family and four-family dwellings.

RECOMMENDATION:
Staff recommends forwarding **ADM-2023-0001** to the City Council with a recommendation of approval.

RECOMMENDED MOTION:
"I move to forward **ADM-2023-0001** to the City Council with a recommendation of approval."

BACKGROUND:

Conversations about housing are at the forefront of municipal policy discussions locally, regionally, and nationally. Additionally, the topics of housing affordability, attainability, and diversity of housing options have considerable attention. Zoning requirements have become the focus of attention as one opportunity for cities to make policy changes that would positively affect the production of housing. With this in mind, Long Range Planning staff reviewed the Unified Development Code (UDC) with the intent of exploring what the City's zoning requirements for "missing middle housing" are.

"Missing Middle Housing" is a term coined by Daniel Paroleck of Opticos Design, Inc. who wrote the book Missing Middle Housing. The term describes types of housing that before the 1950s were common and now tend to be missing, at least in new developments, across the United States. These are housing types that fill the gap between single-family dwellings and large multi-family dwellings. The term includes housing that ranges from duplexes and cottage courts to medium density multi-family apartments with numbers of units in the teens or twenties, as well as housing above small retail stores. Three- and four- family dwellings, as well as small to medium multi-family dwellings fit within this definition. "Missing middle housing tends to provide a range of price points that are not readily seen in single family or large multi-family dwellings. These housing types can fit into single-family neighborhoods more easily, as they can appear to be single-family

homes when viewed from the street." However, these types are not currently permitted by right in residential single-family zoning districts.

While reviewing zoning district requirements, staff noted several inconsistencies in the language used to regulate three- and four- family dwellings in Chapter 161, and that the definition for multi-family dwellings in Chapter 151 appears to conflict with the definition of multi-family in Chapter 162. There is not currently a definition for three- and four- family dwellings in Chapter 151.01, although they are a separate use unit in Chapter 162 and currently have distinct zoning regulations from two-family or multi-family dwellings. Additionally, the City's Zoning and Development Administrator received an inquiry regarding Chapter 161.11(D) where four-family is not currently included in the table for bulk and area regulations. The City's Zoning and Development Administrator was called upon to make an interpretation of the UDC, which was that the zoning requirements for four-family dwellings are the same as for three-family dwellings.

The need for clarity for four-family dwelling requirements further carries over to Chapter 166, both in 166.08 Street Design And Access Management Standards and 166.23 Urban Residential Design Standards where two-family, three-family, and multi-family dwellings are listed but four-family is not mentioned. Staff recommends adding four-family to these sections to provide uniformity throughout the code.

DISCUSSION:
The purpose of these amendments is to make the Unified Development Code requirements for multi-family as well as, three- and four- family dwellings clear to those who intend to create this type of housing and to provide more consistent syntax throughout the UDC. In Summary:

- These amendments would not change any current policies or zoning entitlements.
- Four-family would be added to 161.11(D) 166.08(F)(2) and 166.23(B)(2) with the same zoning regulations as three-family.
- Additional edits would be made for consistent syntax and clarity such as adding in "(2)" where two-family is inconsistently used which would result in "two (2) family" or adding in the word "family" where existing tables list "three or more" in reference to three-family or greater density dwellings.
- The definition for *dwelling, multi-family* would change from defining residences for three or more families to defining five or more families, consistent with the use units in Chapter 162.
- A definition for *dwelling, three-family* or *four-family* would be added to chapter 151.01.

PLANNING COMMISSION ACTION:	**Required**	**YES**		
Date: March 27, 2023	**❒ Tabled**	**❒ Forwarded**	**❒ Denied**	
Motion:				
Second:				
Vote:				

BUDGET/STAFF IMPACT:
None

Attachments:

- **Proposed Ordinance, Clean**
  - §151.01 Definitions
  - §161 Zoning Regulations
    - §161.11 District RI-12, Residential Intermediate – Twelve (12) Units Per Acre
    - §161.13 District RMF-6, Residential Multi-Family – Six (6) Units Per Acre
    - §161.14 District RMF-12, Residential Multi-Family – Twelve (12) Units Per Acre
    - §161.15 District RMF-18, Residential Multi-Family – Eighteen (18) Units Per Acre
    - §161.16 District RMF-24, Residential Multi-Family – Twenty-Four (24) Units Per Acre
    - §161.17 District RMF-40, Residential Multi-Family – Forty (40) Units Per Acre
    - §161.18 NS-L, Neighborhood Services - Limited
  - §166.08 Development Street Design And Access Management
  - §166.23 Urban Residential Design Standards

- **Proposed Ordinance, Strikethrough/Highlight**
  - §151.01 Definitions - Multi-family, Three and Four Family
  - §161 Zoning Regulations - Three and Four Family
    - §161.11 District RI-12, Residential Intermediate – Twelve (12) Units Per Acre
    - §161.13 District RMF-6, Residential Multi-Family – Six (6) Units Per Acre
    - §161.14 District RMF-12, Residential Multi-Family – Twelve (12) Units Per Acre
    - §161.15 District RMF-18, Residential Multi-Family – Eighteen (18) Units Per Acre
    - §161.16 District RMF-24, Residential Multi-Family – Twenty-Four (24) Units Per Acre
    - §161.17 District RMF-40, Residential Multi-Family – Forty (40) Units Per Acre
    - §161.18 NS-L, Neighborhood Services - Limited
  - §166.08 Street Design And Access Management Standards
  - §166.23 Urban Residential Design Standards

151.01 – Definitions

Dwelling, multi-family (zoning). A residential building designed for or occupied by five (5) or more families, with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling, three-family or four-family (zoning). A residential building designed for or occupied by three (3) or four (4) families, with the number of families in residence not exceeding the number of dwelling units provided.

161.11 District RI-12, Residential Intermediate - Twelve (12) Units Per Acre

(A) *Purpose.* The RI-12 Residential District is designed to permit and encourage the development of detached and attached dwellings in suitable environments, to provide a development potential between low density and medium density with less impact than medium density development, to encourage the development of areas with existing public facilities and to encourage the development of a greater variety of housing values.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rentals

(D) *Bulk and Area Regulations.*

	Single-family	Two (2) family	Three (3) and four (4) family
Lot width minimum	50 feet	50 feet	90 feet
Lot area minimum	5,000 square feet	7,260 square feet	10,890 square feet.

161.13 District RMF-6, Residential Multi-Family—Six (6) Units Per Acre

(A) *Purpose.* The RMF-6 Multi-family Residential District is designed to permit and encourage the development of multi-family residences at a low density that is appropriate to the area and can serve as a transition between higher densities and single-family residential areas.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 26	Multi-family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rentals

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Manufactured home park	100 feet
Lot within a manufactured home park	50 feet
Single-family	50 feet
Two (2) family	50 feet
Three (3) family or more	90 feet
Professional offices	100 feet

(2) *Lot Area Minimum.*

Manufactured home park	3 acres
Lot within a Manufactured home park	4,200 square feet
Townhouse: Individual lot	2,500 square feet
Single-family	6,000 square feet
Two (2) family	7,000 square feet
Three (3) family or more	9,000 square feet
Fraternity or Sorority	2 acres
Professional offices	1 acre

161.14 District RMF-12, Residential Multi-Family - Twelve (12) Units Per Acre

(A) *Purpose.* The RMF-12 Multi-family Residential District is designed to permit and encourage the development of multi-family residences at a moderate density that is appropriate to the area.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 26	Multi-family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rentals

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Manufactured home park	100 feet
Lot within a manufactured home park	50 feet
Single family	45 feet
Two (2) family	45 feet
Three (3) family or more	80 feet
Professional offices	100 feet

(2) *Lot Area Minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 square feet
Townhouse: Individual lot	2,500 square feet
Single-family	4,500 square feet
Two (2) family	6,000 square feet
Three (3) family or more	9,000 square feet
Fraternity or Sorority	2 acres
Professional offices	1 acre

161.15 District RMF-18, Residential Multi-Family — Eighteen (18) Units Per Acre

(A) *Purpose.* The RMF-18 Multi-family Residential District is designed to permit and encourage the development of multi-family residences at a medium density that is appropriate to the area.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 26	Multi-family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rentals

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Manufactured home park	100 feet
Lot within a manufactured home park	50 feet
Single-family	40 feet
Two (2) family	40 feet
Three (3) family or more	75 feet
Professional offices	100 feet

(2) *Lot Area Minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 square feet
Townhouse: Individual lot	2,500 square feet
Single-family	4,000 square feet
Two (2) family	5,000 square feet
Three (3) family or more	7,500 square feet
Fraternity or Sorority	2 acres
Professional offices	1 acre

161.16 District RMF-24, Residential Multi-Family - Twenty-Four (24) Units Per Acre

(A) *Purpose.* The RMF-24 Multi-family Residential District is designed to permit and encourage the developing of a variety of dwelling types in suitable environments in a variety of densities.

(B) *Uses.*

(1) Permitted Uses.

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 26	Multi-family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rentals

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Manufactured home park	100 feet
Lot within a Manufactured home park	50 feet
Single-family	35 feet
Two (2) family	35 feet
Three (3) family or more	70 feet
Professional offices	100 feet

(2) *Lot Area Minimum.*

Manufactured home park	3 acres
Lot within a mobile home park	4,200 square feet
Townhouses: Individual lot	2,000 square feet
Single-family	3,000 square feet
Two (2) family	4,000 square feet
Three (3) family or more	7,000 square feet
Fraternity or Sorority	2 acres
Professional offices	1 acres

161.17 District RMF-40, Residential Multi-Family - Forty (40) Units Per Acre

(A) *Purpose.* The RMF-40 Multi-family Residential District is designated to protect existing high density multi-family development and to encourage additional development of this type where it is desirable.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 26	Multi-family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rentals

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Manufactured home park	100 feet
Lot within a Manufactured home park	50 feet
Single-family	30 feet
Two (2) family	30 feet
Three (3) family or more	70 feet
Professional offices	100 feet

(2) *Lot Area Minimum.*

Manufactured home park	3 acres
Lot within a mobile home park	4,200 square feet
Townhouses: Individual lot	2,000 square feet
Single-family	2,500 square feet
Two (2) family	3,000 square feet
Three (3) family or more	7,000 square feet
Fraternity or Sorority	1 acre

161.18 NS-L, Neighborhood Services - Limited

(A) *Purpose.* The NS-L Neighborhood Services - Limited district is designed to serve as a mixed use area of low intensity. Neighborhood Services promotes a walkable, pedestrian-oriented neighborhood development form with sustainable and complementary neighborhood businesses that are compatible in scale, aesthetics, and use with surrounding land uses. For the purpose of Chapter 96: Noise Control, the Neighborhood Services district is a residential zone.

(D) *Bulk and Area.*

(1) *Lot Width Minimum.*

Single-family	35 feet
Two (2) family or more	35 feet
All other uses	None

(2) *Lot Area Minimum.*

Single-family	4,000 square feet
Two (2) family or more	3,000 square feet of lot area per dwelling unit
All other permitted and conditional uses	None

CHAPTER 166: - DEVELOPMENT

166.08 Street Design And Access Management Standards

(F) *Access Management.* Safe and adequate vehicular, bicycle, and pedestrian access shall be provided to all parcels. Residential link streets and driveways shall not detract from the safety and efficiency of bordering arterial routes. Property that fronts onto more than one (1) public street shall place a higher priority on accessing the street with the lowest functional classification, e.g., residential and neighborhood links. In a case where the streets have the same classification, access shall be from the lower volume street, or as determined by the City Engineer.

(2) Separation for two (2) family, three (3) and four (4) family, multi-family, and nonresidential development.

(a) *Regional and Regional High Activity Links.* Where a street with a lower functional classification exists that can be accessed, curb cuts shall access onto those streets. When necessary, curb cuts along regional links shall be shared between two (2) or more lots. Where a curb cut must access the regional link, it shall be located a minimum of 250 feet from an intersection or driveway.

(b) *Neighborhood Links.* Curb cuts shall be located a minimum of 100 feet from an intersection or driveway. When necessary, curb cuts along neighborhood links shall be shared between two (2) or more lots.

(c) *Residential Links.* Curb cuts shall be located a minimum of 50 feet from an intersection or driveway. In no case shall a curb cut be located within the radius return of an adjacent curb cut or intersection.

166.23 Urban Residential Design Standards

(B) *Applicability.* All references to urban residential design standards shall include the following uses as permitted by right or conditional use in all zoning districts:

(1) Two (2) family dwellings

(2) Three (3) and four (4) family dwellings

(3) Multi-family dwellings

151.01 – Definitions

Dwelling, multi-family (zoning). A residential building designed for or occupied by five (5) or more families, with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling, three-family or four-family (zoning). A residential building designed for or occupied by three (3) or four (4) families, with the number of families in residence not exceeding the number of dwelling units provided.

161.11 District RI-12, Residential Intermediate~~,~~ - Twelve (12) Units Per Acre

(A) *Purpose.* The RI-12 Residential District is designed to permit and encourage the development of detached and attached dwellings in suitable environments, to provide a development potential between low density and medium density with less impact than medium density development, to encourage the development of areas with existing public facilities and to encourage the development of a greater variety of housing values.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rentals

(D) *Bulk and Area Regulations.*

	Single-family	Two (2) family	Three (3) and four (4) family
Lot width minimum	50 feet	50 feet	90 feet
Lot area minimum	5,000 square feet	7,260 square feet	10,890 square feet.

161.13 District RMF-6, Residential Multi-Family—Six (6) Units Per Acre

(A) *Purpose.* The RMF-6 Multi-family Residential District is designed to permit and encourage the development of multi-family residences at a low density that is appropriate to the area and can serve as a transition between higher densities and single-family residential areas.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 26	Multi-family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rentals

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Manufactured home park	100 feet
Lot within a manufactured home park	50 feet
Single-family	50 feet
Two (2) family	50 feet
Three ~~and~~ (3) family or more	90 feet
Professional offices	100 feet

(2) *Lot Area Minimum.*

Manufactured home park	3 acres
Lot within a Manufactured home park	4,200 square feet
Townhouse: Individual lot	2,500 square feet
Single-family	6,000 square feet
Two (2) family	7,000 square feet
Three (3) family or more	9,000 square feet
Fraternity or Sorority	2 acres
Professional offices	1 acre

161.14 District RMF-12, Residential Multi-Family - Twelve (12) Units Per Acre

(A) *Purpose.* The RMF-12 Multi-family Residential District is designed to permit and encourage the development of multi-family residences at a moderate density that is appropriate to the area.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 26	Multi-family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rentals

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Manufactured home park	100 feet
Lot within a manufactured home park	50 feet
Single family	45 feet
Two (2) family	45 feet
Three (3) ~~and~~ family or more	80 feet
Professional offices	100 feet

(2) *Lot Area Minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 square feet
Townhouse: Individual lot	2,500 square feet
Single-family	4,500 square feet
Two (2) family	6,000 square feet
Three (3) family or more	9,000 square feet
Fraternity or Sorority	2 acres
Professional offices	1 acre

161.15 District RMF-18, Residential Multi-Family — Eighteen (18) Units Per Acre

(A) *Purpose.* The RMF-18 Multi-family Residential District is designed to permit and encourage the development of multi-family residences at a medium density that is appropriate to the area.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 26	Multi-family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rentals

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Manufactured home park	100 feet
Lot within a manufactured home park	50 feet
Single-family	40 feet
Two (2) family	40 feet
Three (3) ~~and~~ family or more	75 feet
Professional offices	100 feet

(2) *Lot Area Minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 square feet
Townhouse: Individual lot	2,500 square feet
Single-family	4,000 square feet
Two (2) family	5,000 square feet
Three (3) family or more	7,500 square feet
Fraternity or Sorority	2 acres
Professional offices	1 acre

161.16 District RMF-24, Residential Multi-Family - Twenty-Four (24) Units Per Acre

(A) *Purpose.* The RMF-24 Multi-family Residential District is designed to permit and encourage the developing of a variety of dwelling types in suitable environments in a variety of densities.

(B) *Uses.*

(1) Permitted Uses.

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 26	Multi-family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rentals

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Manufactured home park	100 feet
Lot within a Manufactured home park	50 feet
Single-family	35 feet
Two (2) family	35 feet
Three (3) family or more	70 feet
Professional offices	100 feet

(2) *Lot Area Minimum.*

Manufactured home park	3 acres
Lot within a mobile home park	4,200 square feet
Townhouses: Individual lot	2,000 square feet
Single-family	3,000 square feet
Two (2) family	4,000 square feet
Three (3) family or more	7,000 square feet
Fraternity or Sorority	2 acres
Professional offices	1 acres

161.17 District RMF-40, Residential Multi-Family - Forty (40) Units Per Acre

(A) *Purpose.* The RMF-40 Multi-family Residential District is designated to protect existing high density multi-family development and to encourage additional development of this type where it is desirable.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 26	Multi-family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rentals

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Manufactured home park	100 feet
Lot within a Manufactured home park	50 feet
Single-family	30 feet
Two (2) family	30 feet
Three (3) family or more	70 feet
Professional offices	100 feet

(2) *Lot Area Minimum.*

Manufactured home park	3 acres
Lot within a mobile home park	4,200 square feet
Townhouses: Individual lot	2,000 square feet
Single-family	2,500 square feet
Two (2) family	3,000 square feet
Three (3) family or more	7,000 square feet
Fraternity or Sorority	1 acre

161.18 NS-L, Neighborhood Services - Limited

(A) *Purpose.* The NS-L Neighborhood Services - Limited district is designed to serve as a mixed use area of low intensity. Neighborhood Services promotes a walkable, pedestrian-oriented neighborhood development form with sustainable and complementary neighborhood businesses that are compatible in scale, aesthetics, and use with surrounding land uses. For the purpose of Chapter 96: Noise Control, the Neighborhood Services district is a residential zone.

(D) *Bulk and Area.*

(1) *Lot Width Minimum.*

Single-family	35 feet
Two (2) family or more	35 feet
~~Three or more~~	~~35 feet~~
All other uses	None

(2) *Lot Area Minimum.*

Single-family	4,000 square feet
Two (2) family or more	3,000 square feet of lot area per dwelling unit
All other permitted and conditional uses	None

CHAPTER 166: - DEVELOPMENT

166.08 Street Design And Access Management Standards

(F) *Access Management.* Safe and adequate vehicular, bicycle, and pedestrian access shall be provided to all parcels. Residential link streets and driveways shall not detract from the safety and efficiency of bordering arterial routes. Property that fronts onto more than one (1) public street shall place a higher priority on accessing the street with the lowest functional classification, e.g., residential and neighborhood links. In a case where the streets have the same classification, access shall be from the lower volume street, or as determined by the City Engineer.

(2) Separation for two (2) family, three (3) and four (4) family, multi-family, and nonresidential development.

(a) *Regional and Regional High Activity Links.* Where a street with a lower functional classification exists that can be accessed, curb cuts shall access onto those streets. When necessary, curb cuts along regional links shall be shared between two (2) or more lots. Where a curb cut must access the regional link, it shall be located a minimum of 250 feet from an intersection or driveway.

(b) *Neighborhood Links.* Curb cuts shall be located a minimum of 100 feet from an intersection or driveway. When necessary, curb cuts along neighborhood links shall be shared between two (2) or more lots.

(c) *Residential Links.* Curb cuts shall be located a minimum of 50 feet from an intersection or driveway. In no case shall a curb cut be located within the radius return of an adjacent curb cut or intersection.

166.23 Urban Residential Design Standards

(B) *Applicability.* All references to urban residential design standards shall include the following uses as permitted by right or conditional use in all zoning districts:

(1) Two (2) family dwellings

(2) Three (3) and four (4) family dwellings

(3) Multi-family dwellings

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Planner

MEETING DATE: March 27, 2023

SUBJECT: **VAR-2022-0064: Variance (S. SMOKEHOUSE TRL. AND W. MARTIN LUTHER KING JR. BLVD./JIFFY TRIP, 595):** Submitted by ENVIROTECH ENGINEERING AND CONSULTING for property located at S. SMOKEHOUSE TRL. AND W. MARTIN LUTHER KING JR. BLVD. The property is zoned UT, URBAN THOROUGHFARE and contains approximately 2.09 acres. The request is for a variance from access management and parking lot design standards.

RECOMMENDATION:
Staff recommends approval of **VAR-2022-0064** based on the findings contained in this report.

RECOMMENDED MOTION:
"I move to approve **VAR-2022-0064***, determining:*

- *In favor of a variance to UDC §166.08(F),*
- *In favor of a variance to UDC §172.04(E), and*
- *In favor of all other conditions as recommended by staff."*

BACKGROUND:
The subject property is located in west Fayetteville at the southeast corner of the intersection of Martin Luther King Jr. Boulevard and Smokehouse Trail. The property contains one parcel totaling 2.09 acres which is currently undeveloped. It received its current zoning designation of UT, Urban Thoroughfare, as a result of a rezoning in 2022. Mature tree canopy covers much of the site and hydric soils are present along the north side of the property. Kessler Mountain and the Fayetteville Traverse Trail neighbor the property to the south. Surrounding land use and zoning are further depicted in *Table 1.*

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Undeveloped	UT, Urban Thoroughfare
South	Fayetteville Traverse Trail	R-A, Residential-Agricultural
West	Ozark Mountain Smokehouse	UT, Urban Thoroughfare; CS, Community Services
East	Undeveloped	UT, Urban Thoroughfare

DISCUSSION:
Request: The applicant has requested two variances from the Unified Development Code for a proposed gas station that has not yet been reviewed or approved by city staff. Each variance is described below alongside staff's recommendations:

- **§166.08(F), Access Management.** The City's access management standards require that when a property with access to a Regional or Regional High-Activity Link also has access

to a street with a lower functional classification, curb cuts shall access onto those streets. The applicant proposes two curb cuts, one on Martin Luther King Jr. Boulevard (MLK) and one on Smokehouse Trail. Since MLK is classified as a Regional High-Activity Link and Smokehouse is classified as a Residential Link, a curb cut on MLK requires variance approval.

- *Staff recommendation: To allow the property its legal access to an adjacent public street and to achieve efficient vehicle circulation on the site, staff recommends in favor of allowing three-quarter access for the curb cut on MLK in order to permit right/left turns in and right-only turns out of the property. Vehicles wanting to turn left out of the property would be required to exit through the proposed curb cut on Smokehouse Trail. Staff finds that the location of the curb cut on MLK is the furthest feasible from the street's intersection with Smokehouse Trail and meets the 250-foot separation required between driveways and intersections. Additionally, the applicant has indicated that future cross access will be accommodated by providing a stub-out to the property to the east.*

- **§172.04(E), Parking Lot Design Standards.** To reduce excessive paving and ensure the safe and efficient movement of both vehicles and pedestrians through a parking lot, the City's parking lot design standards mandate drive aisle widths of 24 feet. The applicant proposes to exceed this width throughout the proposed development, noting that this is needed for the maneuvering of larger delivery vehicles and fuel trucks.
  - *Staff recommendation: Staff acknowledges the unique product delivery challenges associated with the proposed use of the property as a gas station, as well as the need to reduce conflicts between delivery vehicles, fuel trucks, pedestrians, and bicyclists. Staff finds that allowing for increased drive aisle widths, as proposed, would likely create a safer environment for patrons and is thus supportive of the requested variance.*

Public Comment: Staff has not received any public comment regarding this request.

RECOMMENDATION: Staff recommends approval of **VAR-2022-0064** with the following conditions:

Conditions of Approval:

1. Planning Commission determination of a variance to UDC §166.08(F). *Staff recommends in favor of this variance with the added condition that access onto Martin Luther King Jr. Boulevard be limited to one curb cut with right-in, right-out, and left-in access only;*

2. Planning Commission determination of a variance to UDC §172.04(E). *Staff recommends in favor of this variance for the reasons stated in this report;*

3. Approval of this item does not represent approval of any other zoning or development variances, nor does it represent development entitlement approval for the associated project.

PLANNING COMMISSION ACTION:	**Required**	**YES**		
Date: March 27, 2023	**❒ Tabled**	**❒ Approved**	**❒ Denied**	
Motion:				
Second:				
Vote:				

BUDGET/STAFF IMPACT:
None

ATTACHMENTS:

- Engineering Memo
- Applicant Request Letter
- Site Plan
- One Mile Map
- Close-up Map
- Current Land Use Map

CITY OF
FAYETTEVILLE
ARKANSAS

STAFF MEMO

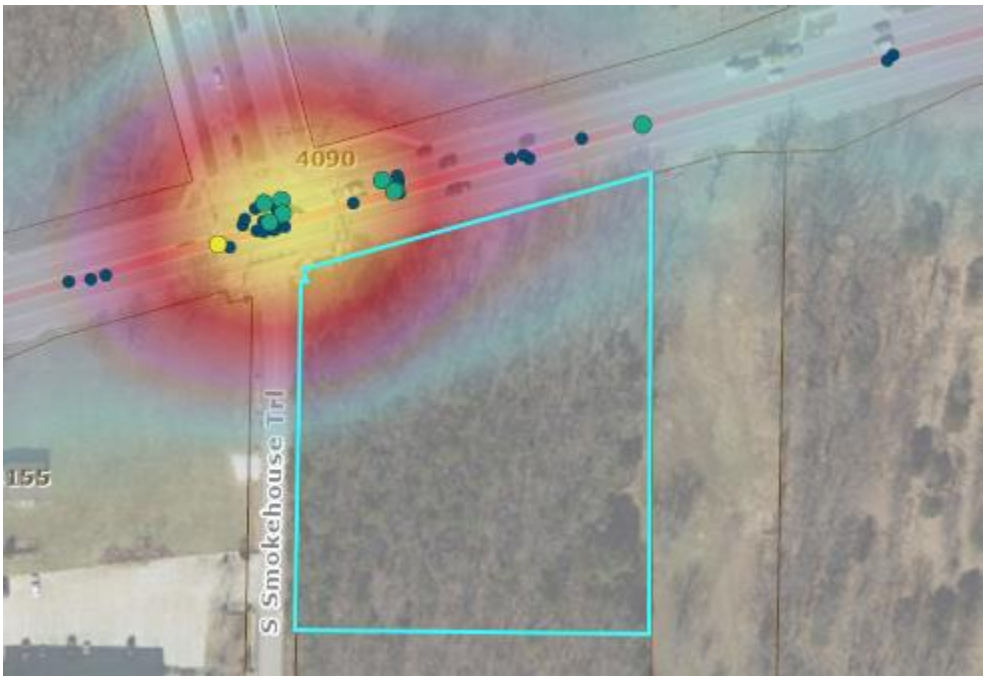
TO: Gretchen Harrison, Planner

FROM: Melissa Boyd, Staff Engineer

DATE: March 22, 2023

SUBJECT: **Planning Commission Engineering Comments for VAR-2022-0064 JIFFY TRIP MLK & SMOKEHOUSE**

Staff is not supportive of the access management variance request as proposed for full driveway access onto W. Martin Luther King Jr. Blvd. The most recent traffic counts in the vicinity of this site from 2021 show a high Average Daily Traffic of 34,000 vehicles per day. Additionally, there have been several crashes on W. Martin Luther King Jr. Blvd. in proximity of this site from 2017-2021, as shown in the heat map below:



Staff recommends a condition be added to only allow three-quarter access for the curb cut on W. Martin Luther King Jr. Blvd., permitting right/left turns in and right-only turns out, which would require vehicles wanting to turn left leaving the site to use the driveway connection proposed on Smokehouse Trail to access the signalized intersection.

ENVIROTECH
ENGINEERING

December 20, 2022

Ms. Sarah Sparkman
Planning Commission Chair
City of Fayetteville, Arkansas

Re: Application for Pathway Variance Request

Ms. Sparkman,

Hammer Williams Co (Jiffy Trip), being the proposed developer of the attached property description, is requesting a variance to the Unified Development Code 166.08 (F) 2, Street Design and Access Management Standards. The variance request is to have driveway access to West Martin Luther King Boulevard (MLK), Arkansas State Highway 62.

The developer has determined that the driveway access along said MLK will be crucial to the development of the described property. Single access to is particular property would greatly limit customer access as well as interrupting the delivery of fuel and product to the business. Limiting the property to access at Smokehouse Trail would create a hazard for delivery and fuel trucks to return to the single access point and causing interaction with pedestrian and vehicular traffic between the store front and fuel dispensary island. The driveway accessing MLK would also provide for future shared access to the adjacent property as indicated on the attached Site Plan.

Petitioner states the above-described variance will not adversely affect the public interest and welfare and will not have the effect of nullifying the intent and purpose of development regulations.

Sincerely,

Christopher P. Burdick
Envirotech Engineering & Consulting, Inc.

2500 N. Eleventh Street Enid, OK 73701 envirotechconsulting.com info@envirotechconsulting.com 580.234.8780

ENVIROTECH
ENGINEERING

December 20, 2022

Ms. Sarah Sparkman
Planning Commission Chair
City of Fayetteville, Arkansas

Re: Application for Pathway Variance Request

Ms. Sparkman,

Hammer Williams Co (Jiffy Trip), being the proposed developer of the attached property description, is requesting a variance to the Unified Development Code 172.04 (E), Parking Lot Design Standards. The variance request is to increase the traffic pathways/driveways beyond the minimum 24-ft width.

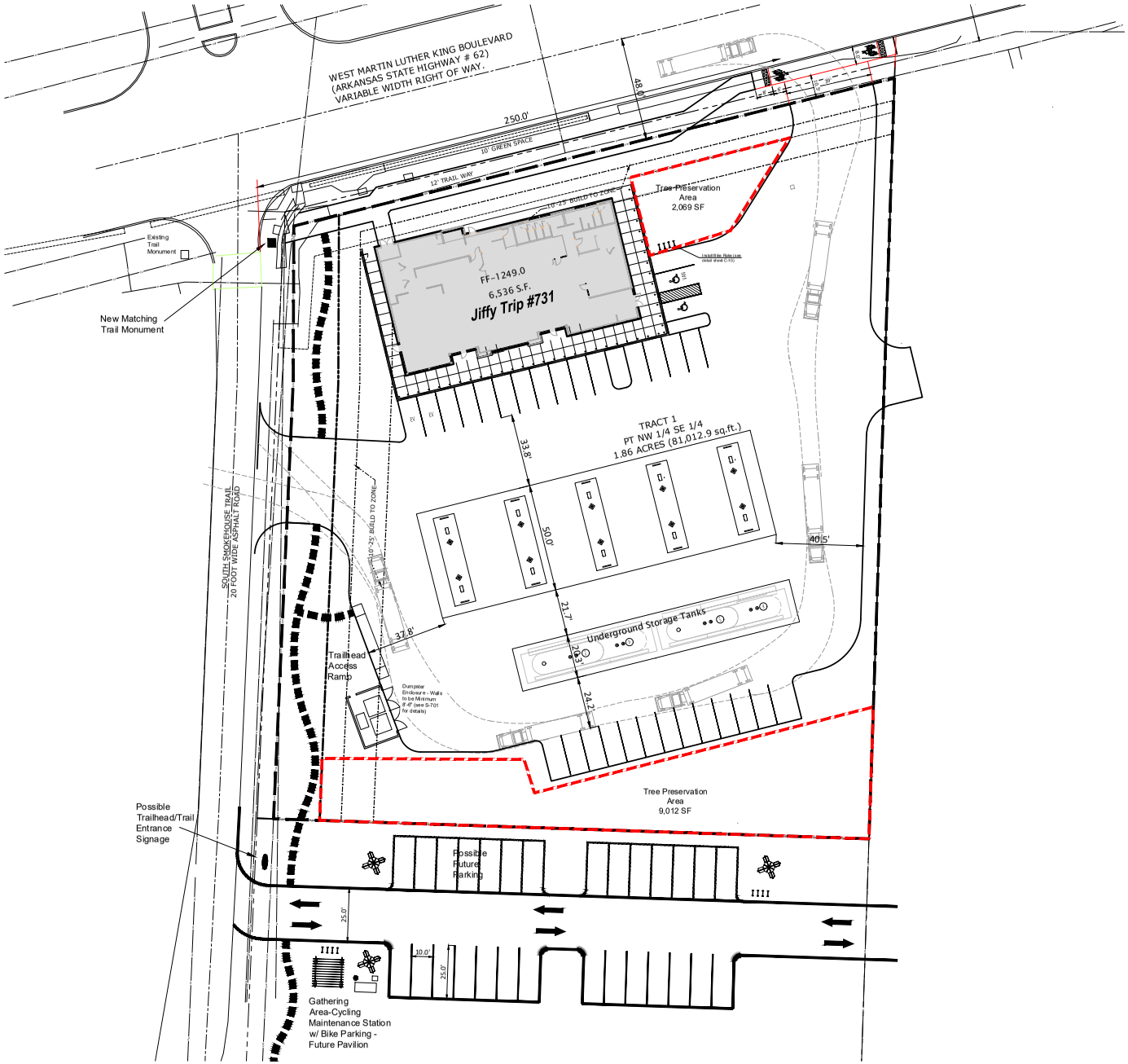
The developer has determined that the additional pathway/driveway width is critical to pedestrian safety and vehicular traffic between the proposed store front and fuel canopy island as well as the ability to provide product delivery to the business. The additional driveway width is also Vidal for fuel truck access and delivery.

Petitioner states the above-described variance will not adversely affect the public interest and welfare and will not have the effect of nullifying the intent and purpose of development regulations.

Sincerely,

Christopher P. Burdick
Envirotech Engineering & Consulting, Inc.

2500 N. Eleventh Street Enid, OK 73701 envirotechconsulting.com info@envirotechconsulting.com 580.234.8780



N
NORTH
0 20 40 60
Scale: 1"=20'
Bar Scale is intended for 24" x 36" (Full Size)

NO.	DATE	DESCRIPTION

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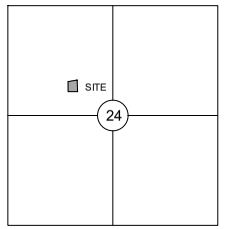
R-3 1-W



WASHINGTON COUNTY
LOCATION MAP
SCALE 1" = 2000

LEGEND

Existing Contours
New Property Line
Proposed Contours
New Parking Striping
New Dimensions
New Curb Dimensions
Existing Pavement
New Pavement
New Sidewalk
Proposed Structure
SET 5/8" REBAR/CAP
FOUND 5/8" REBAR
SET PK NAIL
COMPUTED POINT
BENCHMARK
TELEPHONE PEDESTAL
WATER METER
WATER VALVE
FIRE HYDRANT
ELECTRIC METER
LIGHT
ELECTRICAL BOX
POWER POLE
ACCESS LID
STORM SEWER MH
SANITARY SEWER MH
ADJ. LAND OWNER
SIREN
TELEPHONE PEDESTAL

Site Data

Property Zoning	UT
Proposed Developed Area	91,046 s.f.
	2.09 Acres
Proposed Building	6,536 s.f.
Floor / Property Ratio	95,396 / 6,536=7.18%
Height	30-ft
Parking Allowed	18 Spaces
New Parking Spaces Provided	18 Spaces
ADA Spaces Provided	2 Spaces
Pre Developed	
Existing Impervious Area	0 s.f.
Existing Pervious Area	91,046 s.f.
Post Developed	
Impervious Area	64,588 s.f.
Pervious Area	26,458 s.f.
Net Impervious Area	+64,588 s.f.
Lot Coverage Percentage	
Total Lot Area	91,046 s.f.
Total Impervious Area Added	64,588 s.f.
Total Lot Coverage	70.9%
Post Dev. Property Area	86,900 s.f.
Post Dev. Tree Canopy Area	19,998 s.f.
Percent of Tree Canopy	23.0%

FLOOD NOTE: By graphic plotting only, this property is in Zone(s) X of the Flood Insurance Rate Map, Community Panel No. 05007C0370J, which bears an effective date of 9/28/2007 and is not in a special Flood Hazard Area.
AREA ON MINIMAL FLOOD HAZARD, USUALLY DEPICTED ON FIRMS AS ABOVE THE 500-YEAR FLOOD LEVEL. ZONE C MAY HAVE PONDING AND LOCAL DRAINAGE PROBLEMS THAT DON'T WARRANT A DETAILED STUDY OR DESIGNATION AS BASE FLOODPLAIN. ZONE X IS THE AREA DETERMINED TO BE OUTSIDE THE 500-YEAR FLOOD AND PROTECTED BY LEVEE FROM THE 100-YEAR FLOOD.

ENVIROTECH
ENGINEERING
2500 N. Eleventh Street | P.O. Box 2136 | Ponca City, OK 74602-2136
C.A. # 2680 Exp. 06/30/2023 | (580) 765-7508 | Fax (580) 765-7509

Planning Commission
March 27, 2023

HAMMER WILLIAMS COMPANY
1710 West Willow Road
Enid, Oklahoma 73703
Phone 580.234.3971

SITE PLAN
Jiffy Trip 731 - Fayetteville
MLK State Highway 62 & Smokehouse Trail
Section 24, Township 16 North Range 31 West, Washington County Arkansas

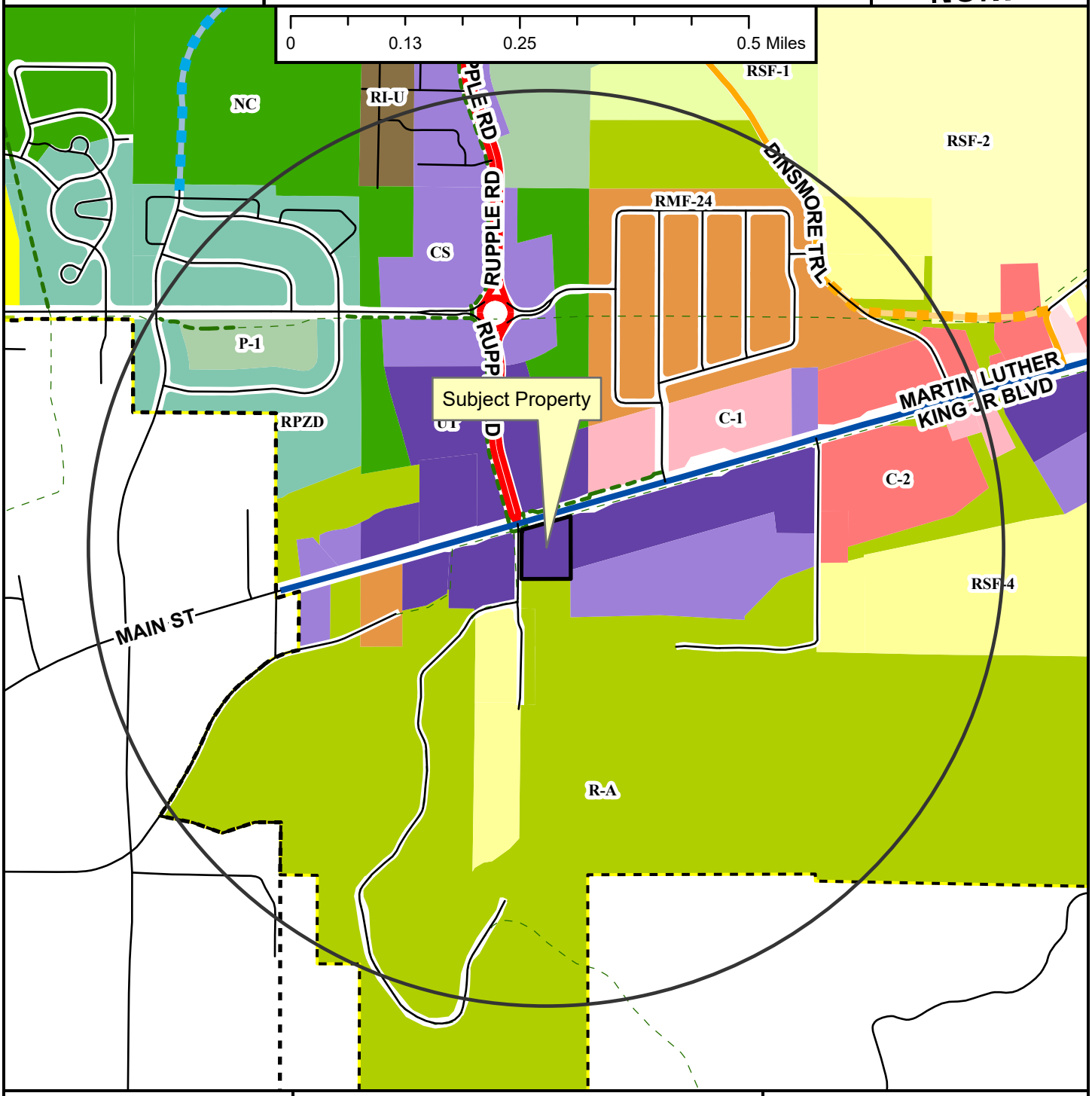
DATE:	March 14, 2023
SCALE:	1"=20'
DESIGNED BY:	C. Burdick
DRAWN BY:	C. Burdick
CHECKED BY:	T. Williams
PROJECT NO.	22.284
SHEET NO.	C-1

VAR-2022-0064

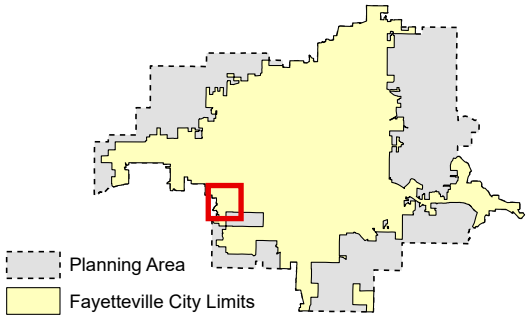
One Mile View

S. SMOKEHOUSE TRL AND W. MARTIN LUTHER KING JR BLVD

NORTH



- Regional Link
- Neighborhood Link
- Regional Link - High Activity
- Unclassified
- Alley
- Residential Link
- Planned Neighborhood Link
- Planned Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Fayetteville City Limits
- Planning Area



Zoning

RESIDENTIAL SINGLE-FAMILY
- NS-G
- RI-U
- RI-12
- NS-L
- Residential-Agricultural
- RSF-.5
- RSF-1
- RSF-2
- RSF-4
- RSF-7
- RSF-8
- RSF-18

RESIDENTIAL MULTI-FAMILY
- RMF-6
- RMF-12
- RMF-18
- RMF-24
- RMF-40

INDUSTRIAL
- I-1 Heavy Commercial and Light Industrial
- I-2 General Industrial

EXTRACTION
- E-1

COMMERCIAL
- Residential-Office
- C-1
- C-2
- C-3

FORM BASED DISTRICTS
- Downtown Core
- Urban Thoroughfare
- Main Street Center
- Downtown General
- Community Services
- Neighborhood Services
- Neighborhood Conservation

PLANNED ZONING DISTRICTS
- Commercial, Industrial, Residential

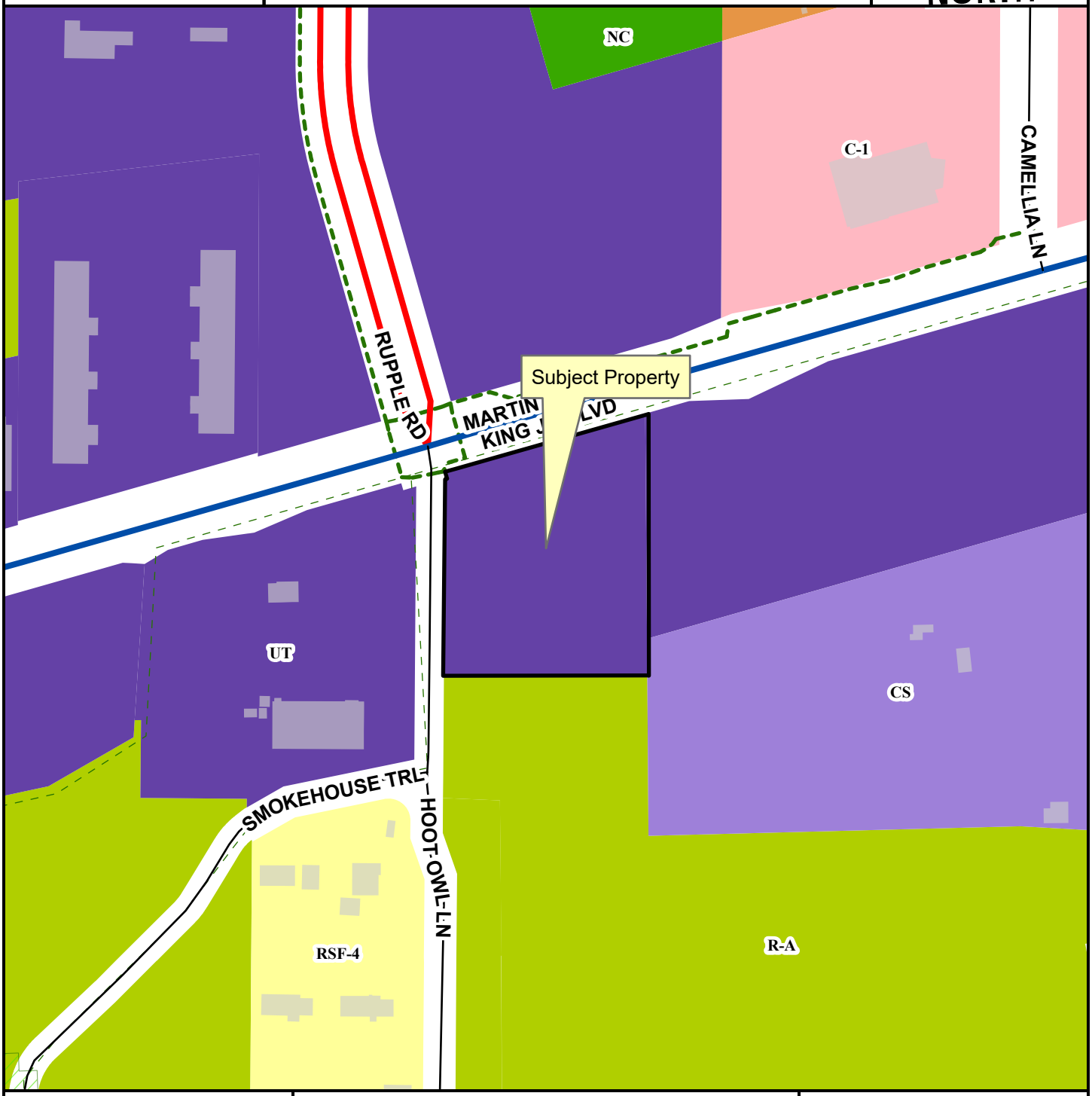
INSTITUTIONAL
- P-1

VAR-2022-0064

Close Up View

S. SMOKEHOUSE TRL AND W. MARTIN LUTHER KING JR BLVD

NORTH



- Regional Link
- Regional Link - High Activity
- Residential Link
- Hillside-Hilltop Overlay District
- Planning Area
- Fayetteville City Limits
- Shared-Use Paved Trail
- Trail (Proposed)

Feet

0 75 150 300 450 600

1:2,400

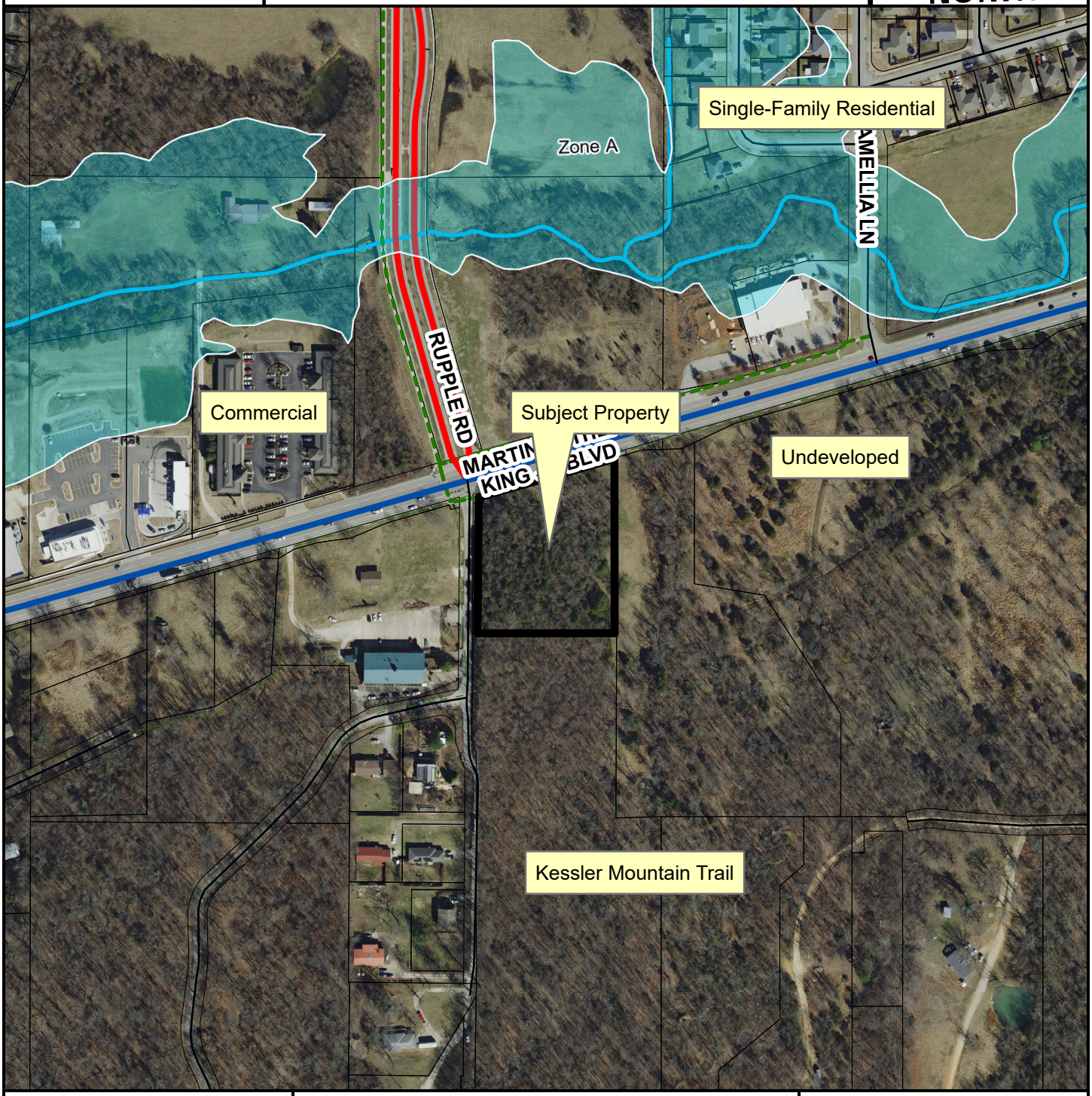
- Residential-Agricultural
- RSF-4
- RMF-24
- C-1
- Urban Thoroughfare
- Community Services
- Neighborhood Conservation

VAR-2022-0064

Current Land Use

S. SMOKEHOUSE TRL AND W. MARTIN LUTHER KING JR BLVD

NORTH



- Regional Link
- Regional Link - High Activity
- Residential Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner

MEETING DATE: March 27, 2023

SUBJECT: **VAR-2023-0001: Variance (W. OF N. WASHINGTON AVE/SPRING STREET COTTAGES):** Submitted by COMMUNITY BY DESIGN for property located W. OF N. WASHINGTON AVE. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, TWENTRY-FOUR UNITS PER ACRE and contains approximately 0.12 acres. The request is for a variance to UDC §172.05 – Standards for the Number of Spaces by Use.

RECOMMENDATION:
Staff recommends approval of **VAR-2023-0001,** with conditions.

RECOMMENDED MOTION:
*"I move to approve **VAR-2023-0001** with conditions, determining:*

- *In favor of the requested variance; and*
- *All other conditions as recommended by staff."*

BACKGROUND:
The subject property is along the west side of N. Washington Avenue in downtown Fayetteville. The site is on the midblock of Washington, approximately two blocks east of the intersection of E. Spring Street and N. College Avenue. The property totals 0.12 acres in size and is zoned RMF-24, Residential Multi-Family, 24 Units per Acre. The lot is undeveloped and covered in vegetation, including some tree canopy. No zoning overlays apply to the property. Surrounding land uses and zoning is depicted in *Table 1.*

Table 1 - Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre
South	Two-Family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre
East	Mixed Density Residential	RI-U, Residential Intermediate-Urban
West	Single-Family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre

Request: The applicant requests a variance to the required number of vehicle parking spaces for a proposed residential development. The proposed development consists of two separate three-family dwellings. The two structures would house a total of six one-bedroom units. The variance is to reduce required parking by eight spaces. A development proposal has not been submitted to-date.

Public Comment: Staff has not received any public comment regarding this request.

DISCUSSION:
To provide adequate areas for off-street parking and storage of motor vehicles, Fayetteville's parking standards specify the minimum and maximum number of vehicle parking spaces for residential uses. Three-family dwellings are required to provide parking at a rate of two spaces per unit, though residential uses can increase or decrease their required parking provided certain standards are met. In their request letter the applicant suggests the property will be developed with two three-family dwellings totaling six units and six-bedrooms. Typically, 12 vehicle spaces would be required of such development. The applicant seeks to reduce the total number of on-site vehicle spaces based on permitted reductions for proximity to transit (15%), additional bike parking (10%), and additional scooter parking. These reductions lower the total required on-site parking to eight spaces. In total the applicant proposes to provide four parking spaces.

Required parking (2/dwelling):	12
-15% proximity to transit	
-10% additional bike parking	
-10% additional scooter parking	
Required parking with reductions:	8
Proposed parking:	4
Difference subject to variance:	4

In their attached request, the applicant asserts that allowing the development to provide parking at a rate one space per bedroom will encourage a missing middle, smaller, more affordable development to be constructed in lieu of much larger single-family or townhome dwelling unit with unlimited bedroom counts, which are required to provide two parking spaces per dwelling unit regardless of bedroom count.

Staff recommends in favor of the request. The purpose of Fayetteville's parking ratio standards includes both the adequate provision of off-street parking for residents and businesses, and the prevention of an over-supply of parking. Staff finds that the requested variance is consistent with these goals. The property is located in downtown Fayetteville where on-street parking is a typical urban condition with many residential and commercial properties lacking driveways or parking lots. On-street parking is not available along N. Washington Avenue as it's currently built out. However, one block to the west on N. Mill Avenue and to north along E. Spring Street parking is available on one side of the street. Staff finds that on-street parking in the area provides sufficient capacity to absorb overflow parking not accommodated on the subject property. Staff's opinion is reinforced by the subject property's proximity to non-residential services, groceries, employment centers, and two transit stops within ¼ mile.

RECOMMENDATION: Staff recommends approval of VAR-2023-0008 with the following conditions:

Conditions of Approval:

1. Planning Commission determination of a variance of §172.05 (parking standards for number of spaces by use). *Staff is supportive of this request based on the findings herein;* and

2. Approval of this variance does not constitute approval of the associated lot split application. Review and approval of the lot split shall be required in accordance with City code.

PLANNING COMMISSION ACTION:	**Required**	**YES**	
Date: March 27, 2023	**❒ Tabled**	**❒ Approved**	**❒ Denied**
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:
None

Attachments:

- UDC §172.05 – Standards for the Number of Spaces by Use
- Request Letter
- Site Plan
- Elevations
- One Mile Map
- Close-up Map
- Current Land Use Map

172.05 Standards For The Number Of Spaces By Use

(A) *Required Parking.*

(1) *Non-Residential Use.* There shall be no minimum number of spaces required for non-residential use. The maximum number of spaces shall be limited based on the ratios in Table 3 and the allowable increases over the baseline ratio as described in subsection 172.05. The applicant shall provide a statement or parking analysis indicating how they will provide adequate parking for the proposed non-residential use to succeed without negatively impacting adjacent properties or creating or compounding a dangerous traffic condition.

(2) *Residential.* The minimum and maximum number of spaces required for residential use shall conform to the parking ratios listed in Table 3. The minimum and maximum number of spaces required for a use not specifically included in this section shall be as required for the most similar use listed or as otherwise determined by the Planning Division utilizing reference standards.

(a) *Reductions for Residential Use.* Residential uses may utilize the following reductions to the minimum number required off-street parking ratios listed in Table 3 when the following standards are met:

(i) *Transit Stops.* Properties located within a ¼ mile radius of a transit stop may further reduce the minimum off-street parking requirements by up to 15%.

(ii) *Motorcycle and Scooter Spaces.* Up to 10% of the required automobile parking spaces may be substituted with motorcycle/scooter parking at a rate of one (1) motorcycle/scooter space for one (1) automobile space.

(iii) *Bike Racks.* Up to 10% of required automobile parking may be substituted with bicycle parking at a rate of one (1) additional bicycle rack for one (1) automobile space. This reduction shall be allowed in addition to other variances, reductions and shared parking agreements.

(iv) *Shared Parking.* Parking requirements may be shared where it can be determined that the peak parking demand of the existing or proposed occupancy occur at different times (either daily or seasonally). Such arrangements are subject to the approval of the Planning Commission.

(1) *Shared Parking Between Developments.* Formal arrangements that share parking between intermittent uses with non-conflicting parking demands (e.g. a church and a bank) are encouraged as a means to reduce the amount of parking required.
(2) *Shared Parking Agreements.* If a privately owned parking facility is to serve two (2) or more separate properties, then a "Shared Parking Agreement" is to be filed with the city for consideration by the Planning Commission.
(3) *Shared Spaces.* Individual spaces identified on a site plan for shared users shall not be shared by more than one (1) user at the same time.

(3) *Maximum Number Allowed for Residential and Non-Residential Uses.* Residential and non-residential developments may utilize the following increases to the required spaces listed in Table 3 when the following standards are met:

(a) Developments may increase the number of off-street parking spaces by 15% above the parking ratios listed in Table 3.

(b) Developments may increase the number of off-street parking spaces by an additional 10% when alternative stormwater treatment techniques are utilized, such as:

(i) Bioswales

(ii) Constructed wetlands

(iii) Pervious pavement

(iv) Other such techniques that aid in improving water quality and quantity as approved by the City Engineer

(c) Developments may increase the number of off-street parking spaces by an additional 5% when one (1), 2-inch caliper tree for every ten (10) additional parking spaces is planted on-site in addition to all other landscaping requirements.

(4) *Parking Ratio Calculation.* The number of spaces required for a use not specifically included in Table 3 shall be as required for the most similar use listed or as otherwise determined by the City Planning Division utilizing industry standards. For all parking space requirements resulting in a fraction, the fraction shall be:

(a) Rounded to the next higher whole number when the fraction is 0.5 or higher.

(b) Rounded to the next lower whole number when the fraction is less than 0.5.

(5) *On-Street Parking.* Each permitted on-street parking space adjacent to a project frontage may count toward the parking requirements for all development. The approval of on-street parking is subject to approval by the Zoning and Development Administrator.

(6) *Motorcycle and Scooter Parking.* One (1) Motorcycle and scooter parking. In parking lots containing twenty-five (25) parking spaces or more, one (1) space for every twenty-five (25) parking spaces of the required number of parking spaces for a use or combination of uses shall be striped as a motorcycle and scooter parking space.

(7) Increases or reductions in excess of those identified herein shall be allowed only by the Planning Commission as a variance and shall be granted in accordance with Chapter 156.03

TABLE 3
PARKING RATIOS
(Use/Required Spaces)

Residential

Single-family, duplex, triplex	2 per dwelling unit
Multi-family or townhouse	1 per bedroom

Commercial

Agricultural supply	1 per 500 sq. ft. of GFA
Amusement	1 per 200 sq. ft. of GFA
Auditorium	1 per 4 seats
Auto/motorcycle service stations	4 per each enclosed service bay
Bank	1 per 200 sq. ft. of GFA
Barber or beauty shop	2 per chair
Building/home improvement supply	1 per 500 sq. ft. of GFA
Coin-operated laundry	1 per 3 machines
Dry cleaning	1 per 300 sq. ft. of retail area and 1 per employee
Hotels and motels	1 per guest room, plus 75% of spaces required for accessory uses.
Furniture and carpet store	1 per 500 sq. ft. of GFA
Plant nursery	1 per 1,000 sq. ft of indoor/outdoor retail area
Restaurants	1 per 100 sq. ft. GFA plus 4 stacking spaces per drive-thru window.
Retail	1 per 250 sq. ft. of GFA
Retail fuel sales with convenience stores	1 per 250 sq. ft. of retail floor area. Owner may count spaces at pump islands as parking spaces.
Retail fuel sales only	1 per employee. Owner may count spaces at pump islands as parking spaces.

Office

Medical/Dental office	1 per 250 sq. ft. of GFA
Professional office	1 per 300 sq. ft. of GFA

Sales office	1 per 200 sq. ft. of GFA

Public and Institutional Uses
Nonprofit Commercial

Art gallery, library, museum	1 per 1,000 sq. ft. of GFA
Auditorium	1 per 4 seats, provided only auditorium space is counted in determining parking
Child care center, nursery school	1 per employee plus on-site loading and unloading spaces at a rate of 1 per 10 children accommodated
Church/religious institution	1 per 4 seats in the main auditorium or 1 per 40 sq. ft. of assembly area, whichever provides more spaces
College auditorium	1 per 4 seats
College dormitory	1 per sleeping room
College or university	1 per 500 sq. ft. of classroom area
Community center	1 per 250 sq. ft. of GFA
Cooperative housing	1 per 2 occupants
Convalescent home, assisted living, nursing home	1 per 2 beds
Detention home	1 per 1,500 sq. ft. of GFA
Elderly Housing	1 per 2 units
Funeral homes	1 per 4 seats in main chapel plus 1 per 2 employees plus 1 reserved for each vehicle used in connection with the business
Government facilities	1 per 500 square feet of floor area
Hospital	1 per bed
Convalescent home	1 per bed
School—elementary and junior high	1 per employee plus 1 space per classroom
School—senior high	1 per employee plus 1 per 3 students based on design capacity, or 1 per 6 seats in auditorium or other places of assembly, whichever is greater
Zoo	1 per 2,000 sq. ft. of land area
All other public and institutional uses (only auditorium space shall be counted for churches, auditoriums, or group occupancy space)	1 per 4 occupants

Manufacturing/Industrial

Manufacturing	1 per 1,200 sq. ft. of GFA or one per employee, whichever is greater
Heavy industrial	1 per 1,200 sq. ft. of GFA
Extractive uses	Adequate for all employees, trucks, and equipment

Recreational Uses

Amusement park, miniature golf	1 per 1,000 sq. ft. of site area
Bowling alley	6 per lane
Commercial recreation	1 per 200 sq. ft. of GFA

Commercial recreation-large sites	1 per 1,000 sq. ft. of site area
Dance hall, bar or tavern	1 per 50 sq. ft. of GFA, excluding kitchen
Golf course	3 per hole
Golf driving range	1 per tee box
Health club, gym	1 per 150 sq. ft. of GFA
Regional or community park	2 per acre of accessible active and passive space
Neighborhood park	None
Private club or lodge	1 per 500 sq. ft. of GFA or 1 per 3 occupants based on the current adopted Standard Building Code whichever is greater
Riding stable	1 per acre; not required to be paved
Tennis court	2 per court
Theater	1 per 4 seats
All other recreational uses	1 per 4 occupants

Warehousing and Wholesale

Warehousing	1 per 2,000 sq. ft. of GFA
Wholesale	1 per 1,000 sq. ft. of GFA
Center for collecting recycled materials	1 per 1,000 sq. ft. of GFA

(Ord. No. 4567, 05-04-04; Ord. No. 4930, 10-03-06; Ord. No. 5118, 3-18-08; Ord. No. 5297, 12-15-09; Ord. No. 5435, 8-16-11; Ord. No. 5801 , §1(Exh. A), 10-6-15)

community.by.design
TOWN PLANNING.URBAN ENGINEERING

February 27, 2023
Via EnerGov

Ms. Jessica Masters
Zoning and Development Administrator
City of Fayetteville
125 West Mountain Street
Fayetteville, Arkansas 72701

RE: **North Washington Avenue – Variance Request**

Ms. Masters,

As the owner of Washington County Parcel 765-12693-000 and parcels associated with SIP 16-5480 / CUP 18-6214, please allow this letter to serve as a variance request from regulations set forth in Chapter 172 of the City of Fayetteville Unified Development Code. Specifically 172.05 Table 3 which requires single-family, duplex, and triplex use to provide parking at a rate of 2 parking spaces per dwelling. The request is to allow development of single-family, duplex, or triplex use that provides parking at a rate of 1 parking space per bedroom. This is intended for dwelling units that contain 1-bedroom.

Allowing development to provide parking at a rate 1 per bedroom will encourage a missing middle, smaller, more affordable townhome or apartment to be constructed in lieu of much larger single-family or townhome dwelling unit with unlimited bedroom counts, which are required to provide 2 parking spaces per dwelling unit regardless of bedroom count. Other larger single-family houses or townhomes recently constructed in the neighborhood with 4 plus bedrooms are typically rented to freshmen college students by the bedroom.

Current conceptual plans for development on the property include constructing triplexes that contain 1 bedroom and approximately 840 square feet per dwelling unit. Conceptual floor plans and elevations are included with this submittal request. Each triplex has been designed to look like a modest single family house. The conceptual plans are similar in scale to the newly constructed multi-family apartment houses directly across the street at 132 and 144 N. Washington Avenue. 132 and 144 provides 1 bedroom townhomes or apartments primarily for young professionals wanting to live near the Fayetteville Square. Parking is provided at 1 parking space per bedroom or 1 parking space per dwelling unit and has functioned without issue for over 2 years now.

Tenants of 132 and 144 have primarily consisted of younger professionals ranging in age from 25-40 years old. Most have moved from larger, walkable, urban areas such as San Diego, CA, Log Angeles, CA, San Francisco, CA, Portland, OR, Austin, TX, Minneapolis, MN, Cincinnati, OH, and Chicago, IL. These tenants are accustomed to a more urban, walkable environment where parking the car is a secondary consideration. Some have not had cars and some walk to work on the Fayetteville Square.

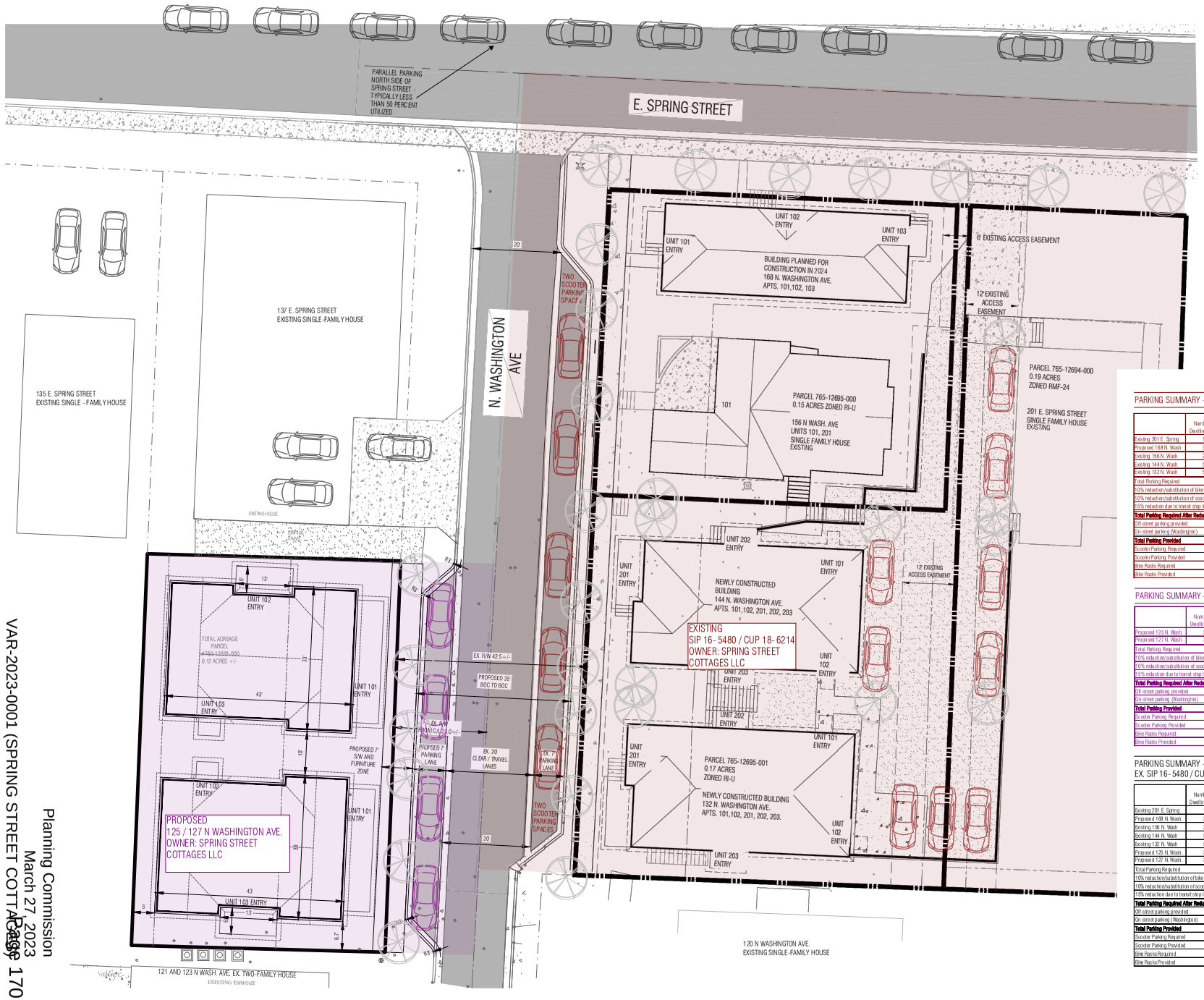
A parking analysis site plan document has also been included with this submittal request. The parking analysis shows a parking summary for stand-alone development at 125 and 127 N. Washington Ave. and also for stand-alone development as a part of SIP 16-5480 / CUP 18-6214. In addition a parking summary has been included which summarizes parking as if all properties are combined. All parking summaries proposed meet City of Fayetteville parking requirements if the request to provide parking at 1 per bedroom is granted.

Thank you for considering this request. Please let me know if you have questions or if additional information is needed.

100 West Center Street Suite 300
Fayetteville, AR 72701
479.790.6775

Sincerely,

Brian Teague
Community By Design



PARKING SUMMARY - SIP 16- 5480 / CUP 18- 6214

	Number of Dwelling Units	Number of Bedrooms	Parking Requirement	Parking Required / Provided
Existing, 201 E. Spring	1	-	2 per dwelling	2
Proposed 168 N. Wash.	3	3	1 per bedroom	3
Existing, 156 N. Wash	2	-	2 per dwelling	4
Existing, 144 N. Wash	5	5	1 per bedroom	5
Existing, 132 N. Wash	5	5	1 per bedroom	5
Total Parking Required				19
10% reduction/substitution of bike racks for vehicular parking				1.9
10% reduction/substitution of scooter parking for vehicular parking				1.9
15% reduction due to transit stop location within 1/4 mile				2.9
Total Parking Required After Reductions				**12.4**
Off-street parking provided				9
On-street parking (Washington)				5
Total Parking Provided				**14**
Scooter Parking, Required				2
Scooter Parking, Provided				2
Bike Racks Required				2
Bike Racks Provided				2

PARKING SUMMARY - PROPOSED 125/127 N. WASH.

	Number of Dwelling Units	Number of Bedrooms	Parking Requirement	Parking Required / Provided
Proposed 125 N. Wash.	3	3	1 per bedroom	3
Proposed 127 N. Wash.	3	3	1 per bedroom	3
Total Parking Required				6
10% reduction/substitution of bike racks for vehicular parking				0.6
10% reduction/substitution of scooter parking for vehicular parking				0.6
15% reduction due to transit stop location within 1/4 mile				0.9
Total Parking Required After Reductions				**3.9**
Off-street parking, provided				0
On-street parking, (Washington)				4
Total Parking Provided				**4**
Scooter Parking, Required				1
Scooter Parking, Provided				1
Bike Racks Required				1
Bike Racks Provided				1

PARKING SUMMARY - PROPOSED 125/127 N. WASH. AND EX. SIP 16- 5480 / CUP 18- 6214 COMBINED

	Number of Dwelling Units	Number of Bedrooms	Parking Requirement	Parking Required / Provided
Existing 201 E. Spring	1	-	2 per dwelling	2
Proposed 168 N. Wash.	3	3	1 per bedroom	3
Existing 156 N. Wash	2	-	2 per dwelling	4
Existing 144 N. Wash	5	5	1 per bedroom	5
Existing 132 N. Wash	5	5	1 per bedroom	5
Proposed 125 N. Wash.	3	3	1 per bedroom	3
Proposed 127 N. Wash.	3	3	1 per bedroom	3
Total Parking Required				25
10% reduction/substitution of bike racks for vehicular parking				2.5
10% reduction/substitution of scooter parking for vehicular parking				2.5
15% reduction due to transit stop location within 1/4 mile				3.8
Total Parking Required After Reductions				**16.3**
Off-street parking provided				9
On-street parking (Washington)				9
Total Parking Provided				**18**
Scooter Parking Required				3
Scooter Parking Provided				3
Bike Racks Required				3
Bike Racks Provided				3

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STATE OF ARKANSAS
REGISTERED PROFESSIONAL ENGINEER
No. 12048
JOHN BRIAN TEAGUE

CERTIFICATE OF AUTHORIZATION
COMMUNITY BY DESIGN, L.L.C.
#1504
ARKANSAS - ENGINEER

REVISION 0

Date

Date

Date

Date

Date

Date

PROPOSED 125/127 N. WASH. AVE. AND EX. SIP16- 5480/ CUP18- 6214

FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS

CITY PLAT PAGE 485

ISSUED FOR REVIEW

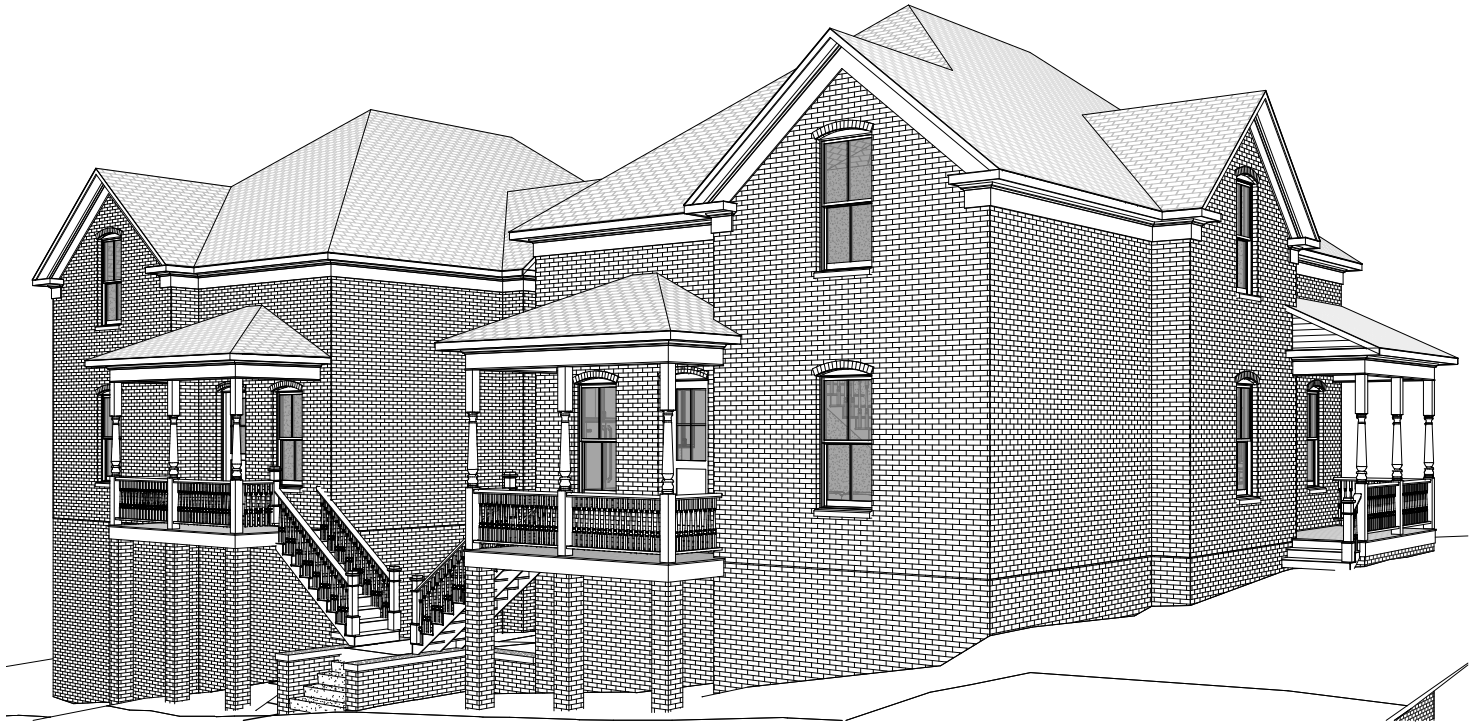
ENGINEER: BT
DRAWN BY: AH
DATE: 2/27/23

SCALE: 1" = 10'

0 10 20
SCALE IN FEET

PARKING ANALYSIS

EXHIBIT #1



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STATE OF ARKANSAS
REGISTERED PROFESSIONAL ENGINEER
No. 12906
JOHN BRIAN TEAGUE

CERTIFICATE OF AUTHORIZATION
COMMUNITY BY DESIGN, L.L.C.
#1504
ARKANSAS - ENGINEER

REVISION 0

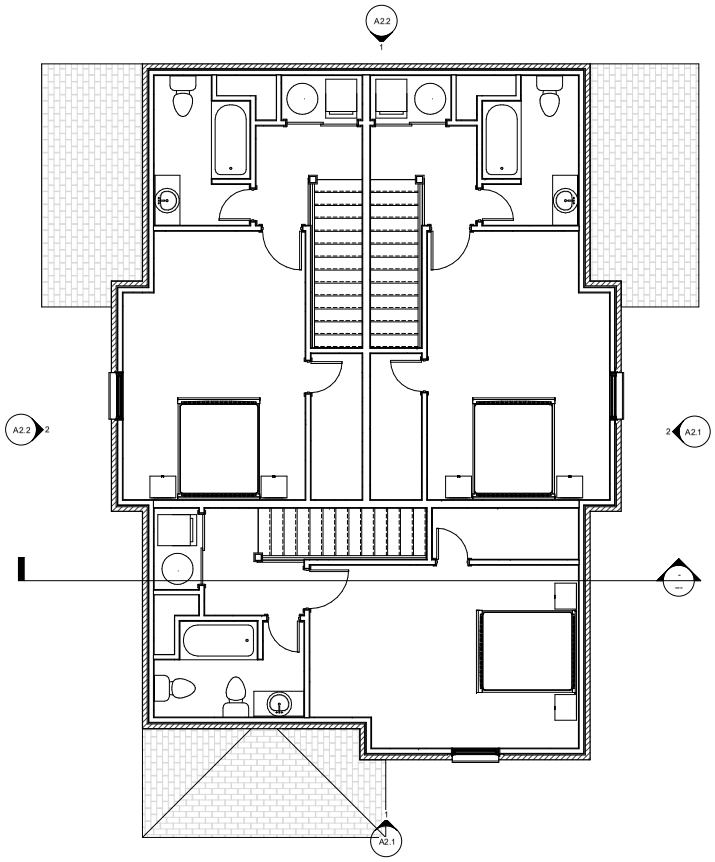
BENT APARTMENT HOUSE

ISSUED FOR REVIEW

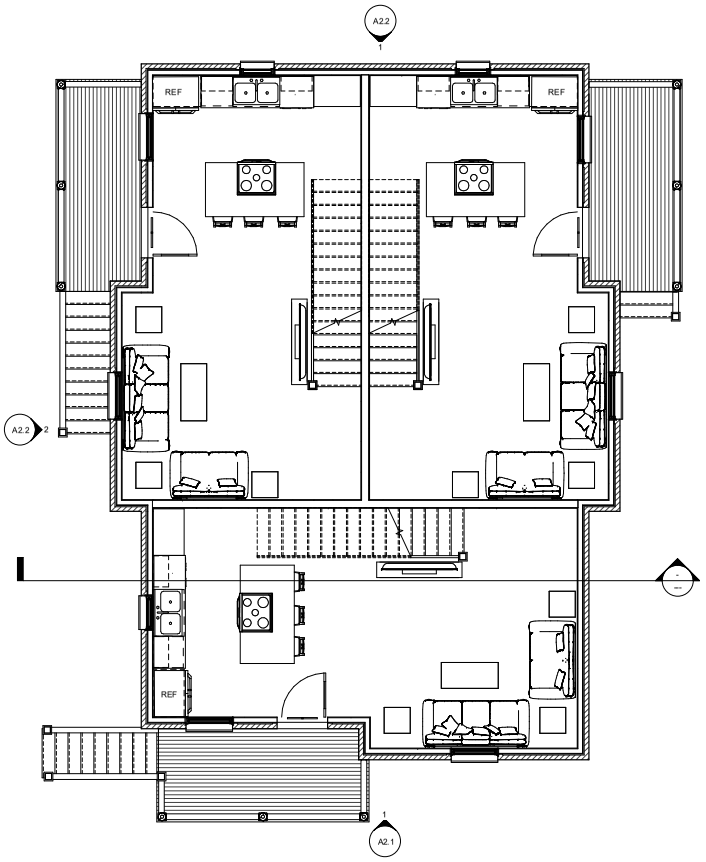
ENGINEER: BT
DRAWN BY: TK
DATE: 02/24/23

COVER

SHEET A0



2 #127 SECOND FLOOR PLAN
1/4" = 1'-0"



1 #127 GROUND FLOOR PLAN
1/4" = 1'-0"

community.by.design

STATE OF ARKANSAS
REGISTERED PROFESSIONAL ENGINEER
No. 13245
JOHN BRIAN TACKETT

CERTIFICATE OF AUTHORIZATION
COMMUNITY BY DESIGN, L.L.C.
#1504
ARKANSAS - ENGINEER

REVISION 0

BENT APARTMENT HOUSE

ISSUED FOR REVIEW

ENGINEER: BT
DRAWN BY: TK
DATE: 02/24/23

#127 PLANS

SHEET A1.1

1 EAST ELEVATIONS
1/4" = 1'-0"

3 #125 SOUTH ELEVATION
1/4" = 1'-0"

2 #127 NORTH ELEVATION
1/4" = 1'-0"

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STATE OF ARKANSAS
REGISTERED PROFESSIONAL ENGINEER
No. 13295
JOHN BRIAN TAGUE

CERTIFICATE OF AUTHORIZATION
COMMUNITY BY DESIGN, L.L.C.
#1504
ARKANSAS - ENGINEER

REVISION 0

BENT APARTMENT HOUSE

ISSUED FOR REVIEW

ENGINEER: BT
DRAWN BY: TK
DATE: 02/24/23

ELEVATIONS

SHEET A2.1

Planning Commission
March 27, 2023
VAR-2023-0001 (SPRING STREET COTTAGES)
Page 13 of 18
Page 173 of 452

3 #125 NORTH ELEVATION
1/4" = 1'-0"

2 #127 SOUTH ELEVATION
1/4" = 1'-0"

1 WEST ELEVATIONS
1/4" = 1'-0"

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STATE OF ARKANSAS
REGISTERED PROFESSIONAL ENGINEER
No. 13245
JOHN BRIAN TAGUE

CERTIFICATE OF AUTHORIZATION
COMMUNITY BY DESIGN, LLC.
#1504
ARKANSAS - ENGINEER

REVISION 0

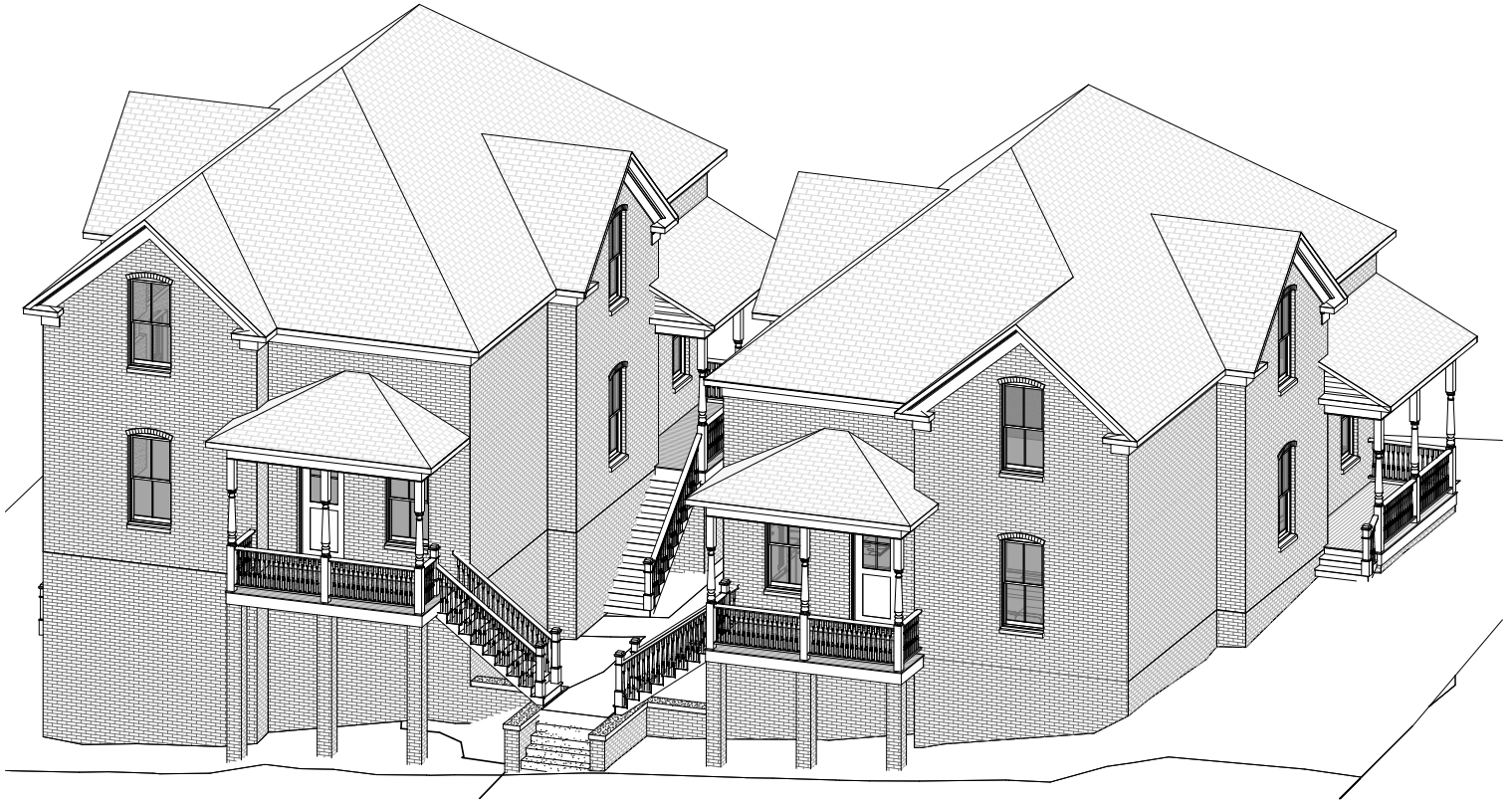
BENT APARTMENT HOUSE

ISSUED FOR REVIEW

ENGINEER: BT
DRAWN BY: TK
DATE: 02/24/23

ELEVATIONS

SHEET A2.2



2 NORTHEAST ORTHOGRAPHIC

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STATE OF ARKANSAS
REGISTERED PROFESSIONAL ENGINEER
No. 13245
JOHN BRIAN TACKETT

CERTIFICATE OF AUTHORIZATION
COMMUNITY BY DESIGN, L.L.C.
#1504
ARKANSAS - ENGINEER

REVISION 0

BENT APARTMENT HOUSE

ISSUED FOR REVIEW

ENGINEER: BT
DRAWN BY: TK
DATE: 02/24/23

ORTHOGRAPHIC

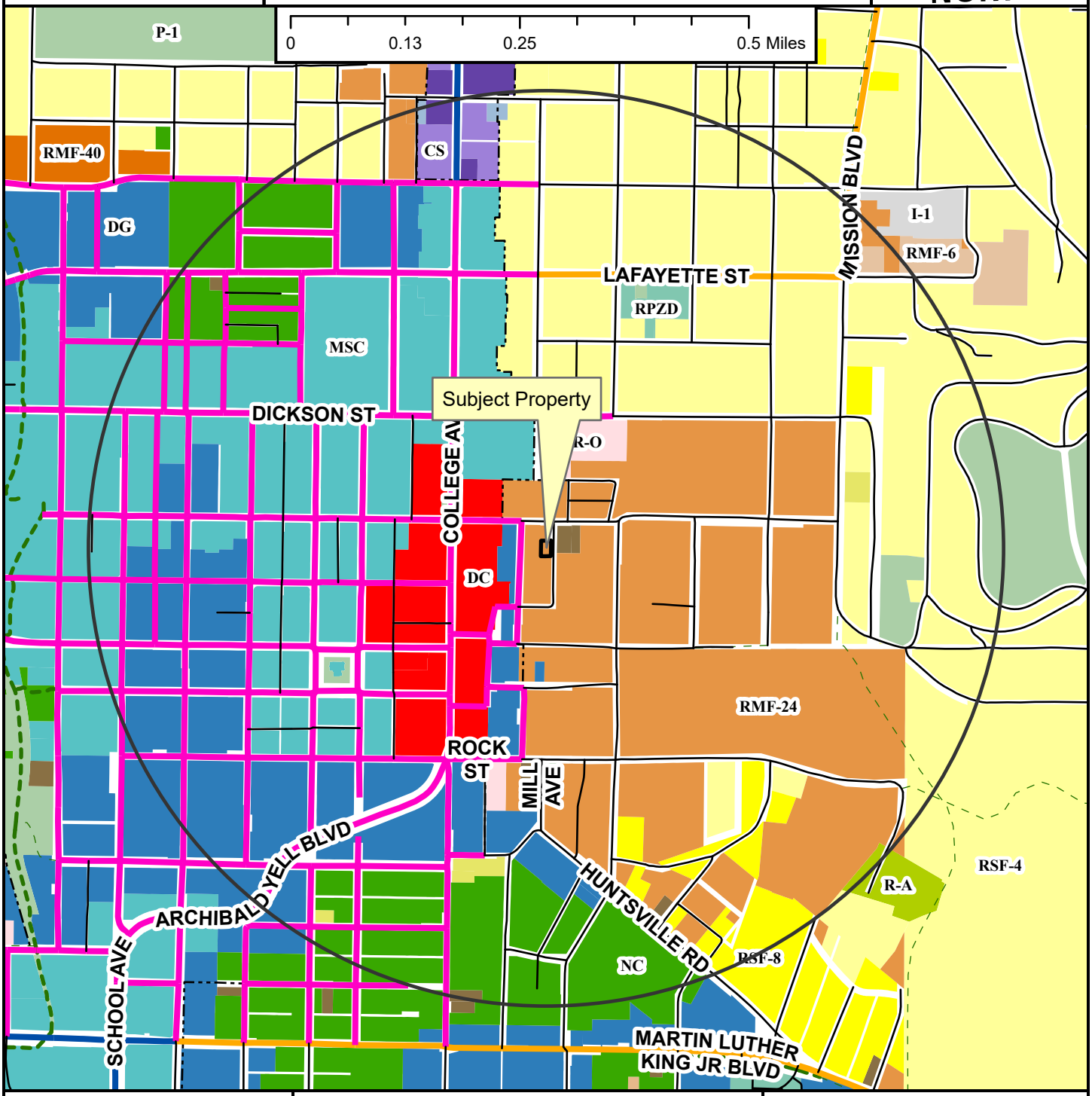
SHEET A3.1

VAR-2023-0001

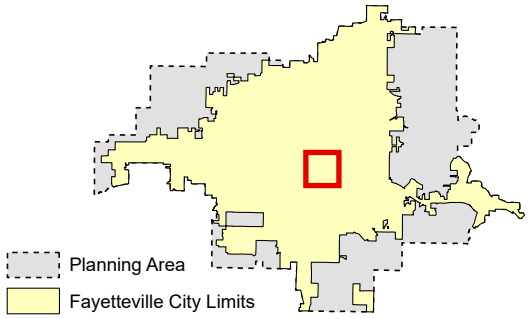
One Mile View

N. WASHINGTON AVE

NORTH



- Neighborhood Link
- Regional Link - High Activity
- Urban Center
- Unclassified
- Alley
- Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Fayetteville City Limits
- Planning Area



Zoning

RESIDENTIAL SINGLE-FAMILY
- NS-G
- RI-U
- RI-12
- NS-L
- Residential-Agricultural
- RSF-.5
- RSF-1
- RSF-2
- RSF-4
- RSF-7
- RSF-8
- RSF-18

RESIDENTIAL MULTI-FAMILY
- RMF-6
- RMF-12
- RMF-18
- RMF-24
- RMF-40

INDUSTRIAL
- I-1 Heavy Commercial and Light Industrial
- I-2 General Industrial

EXTRACTION
- E-1

COMMERCIAL
- Residential-Office
- C-1
- C-2
- C-3

FORM BASED DISTRICTS
- Downtown Core
- Urban Thoroughfare
- Main Street Center
- Downtown General
- Community Services
- Neighborhood Services
- Neighborhood Conservation

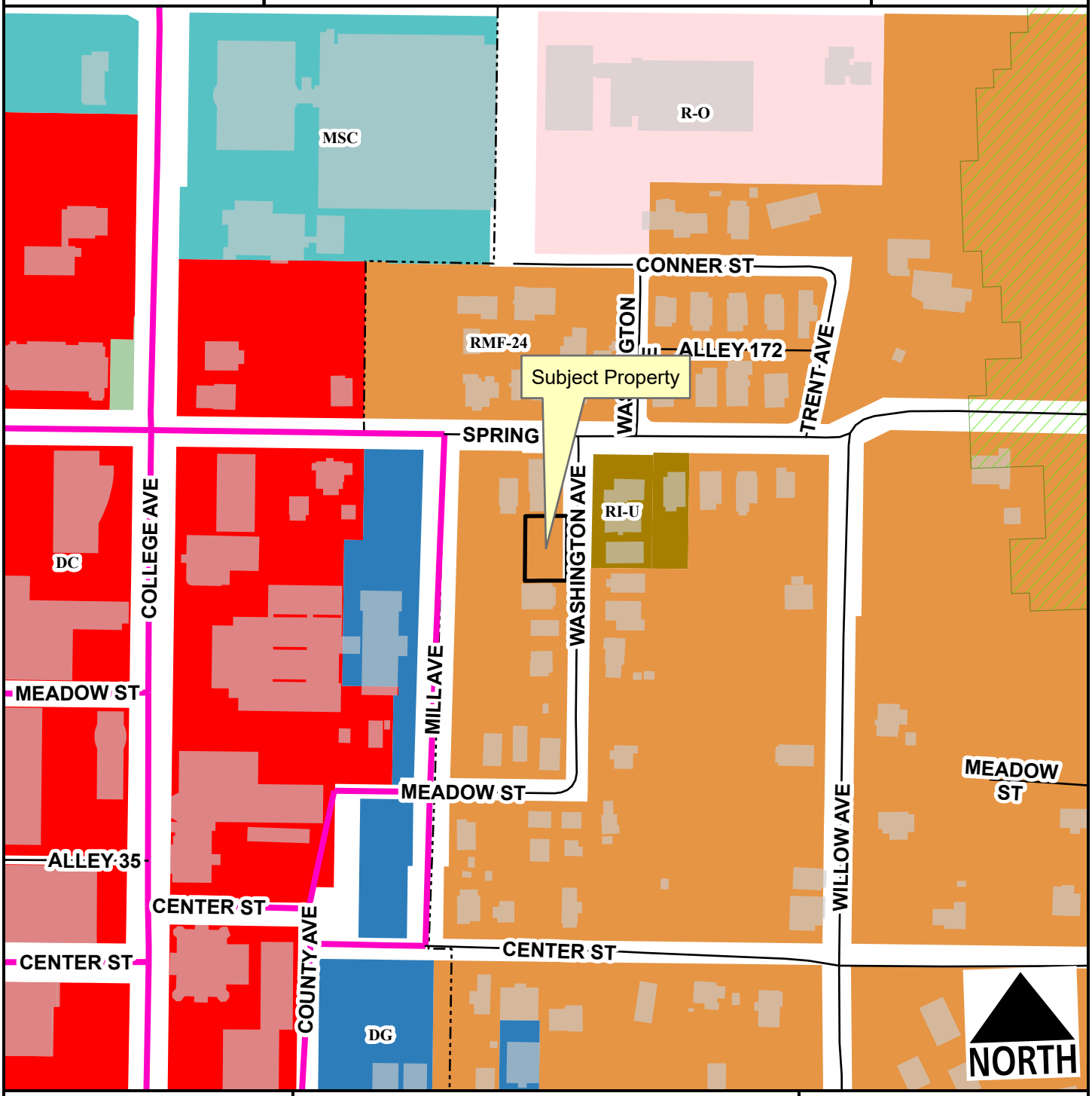
PLANNED ZONING DISTRICTS
- Commercial, Industrial, Residential

INSTITUTIONAL
- P-1

VAR-2023-0001

Close Up View

N. WASHINGTON AVE



Urban Center
Unclassified
Alley
Residential Link
Hillside-Hilltop Overlay District
Planning Area
Fayetteville City Limits
Design Overlay District

Feet
0 75 150 300 450 600
1:2,400

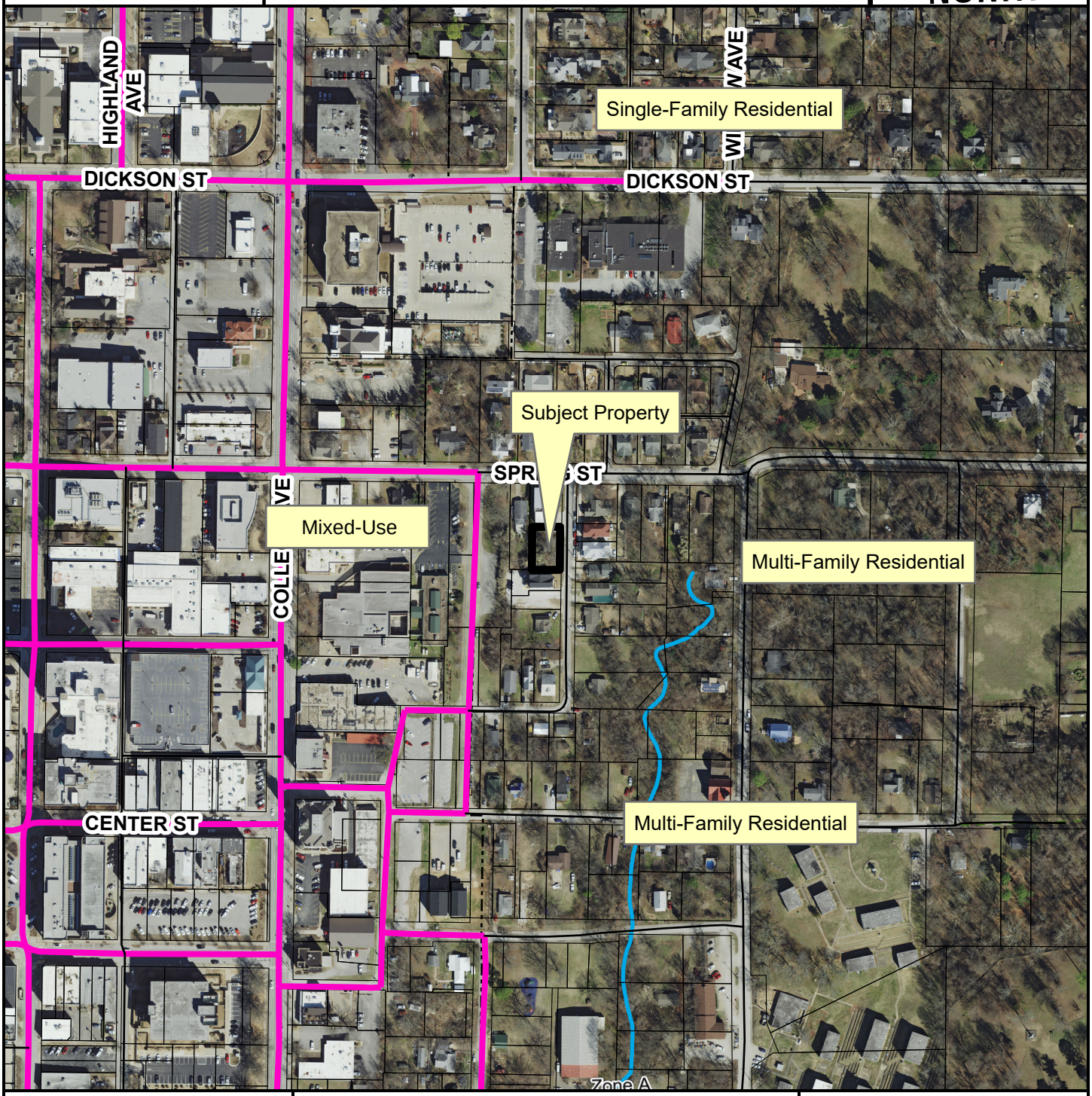
RI-U
RMF-24
Residential-Office
Downtown Core
Main Street Center
Downtown General
P-1

VAR-2023-0001

Current Land Use

N. WASHINGTON AVE

NORTH



- Urban Center
- Unclassified
- Alley
- Residential Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits
- Design Overlay District

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: City of Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Alan Pugh, Staff Engineer

MEETING DATE: March 27, 2023

SUBJECT: **VAR-2023-0006: Planning Commission Variance (WEST OF 256 E. MOUNTAIN ST/CANTABERY, 524):** Submitted by FREDRICK CANTABERY for property located WEST OF 256 E. MOUNTAIN STREET The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE and contains approximately 0.2 acres. The request is a variance to the streamside protection requirements.

RECOMMENDATION:
Staff recommends approval of **VAR-2023-0006**, based on the findings contained in this report.

RECOMMENDED MOTION:
"I move to approve **VAR-2023-0006** with conditions, determining:

- The existing property is largely within the streamside zones, and;
- The proposed development will continue to respect the waterside zone, and;
- The potential owner desires to enhance the stream through removal of invasive species and trash.

BACKGROUND:
The subject property is located on the north side of E Mountain St in between S Washington Ave and S Willow Ave and was platted in advance of the streamside protection ordinance being in place. Spout Springs Branch flows from north to south along the eastern side of the property and the streamside zones as defined by ordinance do take up a large portion of the property.

Surrounding land uses and zoning is depicted in *Table 1.*

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Residential	RMF-24 and DG, see attached project maps
South	Residential/Institutional	
East	Residential	
West	Residential	

Request: The applicant is requesting a variance to the Streamside Protection ordinance to construct a residential single-family home on the property.

Public Comment: Staff has received no public comment concerning this request.

DISCUSSION:
The subject property has been vacant for quite some time according to aerial imagery on the City's GIS mapping. The applicant desires to construct a single-family home on the property while respecting the waterside zone. Some encroachment into the streamside zones would be required based on the required setbacks and extent of the streamside zones on the property if any development is to occur. Staff feels the encroachment requested is reasonable given the size of the lot and encumbrance while still respecting the intent of the streamside protection ordinance. The applicant has agreed to remove portions of the existing trash and invasive species along the riparian corridor.

RECOMMENDATION: Staff recommends approval of **VAR-2023-0006** with the following conditions of approval:

Conditions of Approval:

1. *Applicant obtain all required permits including, but not limited to, a residential building permit for construction of the proposed home. Stream restoration efforts as noted in the variance request may require additional permitting.*
2. *Applicant shall abide by all other streamside regulations unless stated within the variance.*
3. *The current owner shall disclose to any potential buyer that the lot/business is subject to the streamside ordinance and they will be responsible for compliance as the owner. This disclosure shall include a description of the purpose of any features constructed to comply with this variance request and the fact that the features must be maintained in order for the lot to remain in compliance.*

PLANNING COMMISSION ACTION: Required YES
Date: March 27, 2023 ❒ Tabled ❒ Approved ❒ Denied
Motion:
Second:
Vote:

FINDINGS OF THE STAFF

Section 156.03 Development Variances

Certain variances of the development regulations may be applied for as follows:

(C) Consideration by the Planning Commission

(9) *Streamside Protection Zones*

(a) *Undue hardship.* If the provisions of the Streamside Protection Ordinance are shown by the owner or developer to cause undue hardship as strictly applied to the owner or developer's property because of its unique characteristics, the Planning Commission may grant a variance on a permanent or temporary basis from such provision so that substantial justice may be done and the public interest protected, provided that the variance will not have the effect of nullifying the intent and purpose of the Streamside Protection regulations.

The lot is vacant and was platted prior to the streamside protection ordinance being in place. It is a small lot with multiple challenges including streamside protection. Staff feels the applicant has taken reasonable steps to avoid the waterside zone while developing the remainder of the lot. This should aid in minimizing impacts to the streamside zones in keeping with the ordinance while making the site usable. However, the determination of undue hardship is up to the commission.

(b) *Consideration of alternative measures.* The applicant for the variance shall establish that a reasonable rezoning by the City Council or variance request from the Board of Adjustment will not sufficiently alleviate the claimed undue hardship caused by the Streamside Protection regulations.

Rezoning or rulings from the board of adjustments would not change the extent of the streamside protection zone and would not alleviate the need for a variance in this case.

(c) *Conditions and safeguards.* In granting any variance, the Planning Commission may prescribe appropriate conditions and safeguards to substantially secure the objectives and purpose for the regulations so varied and to mitigate any detrimental effects the variance may cause. The Planning Commission should consider the Streamside Protection Best Management Practices Manual and any mitigation recommendations from the City Engineer.

See staff conditions listed above.

BUDGET/STAFF IMPACT:
None

Attachments:

- Applicant request letter
- Proposed variance request exhibit
- One Mile Map
- Close Up Map
- Current Land Use Map

Fredrick (Rick) Cantabery
484-716-6176
Hawkeyeark@icloud.com
43 Ridgecrest Dr
Conway, AR 72034
February 9, 2023

Chair of the Planning Commission
City of Fayetteville
125 West Mountain St
Fayetteville, AR 72701

Reference: Parcel 765-12776-000

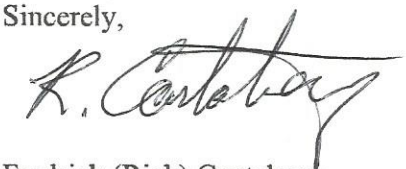
Dear Chair of the Planning Commission:

In consideration for building a single family dwelling at the location noted above I respectfully request a variance specific to the parcel referenced above for reducing the streamside buffer area from 50ft to 25ft. The dwelling would be located, as you are facing north from East Mountain Street, on the far west / left side of the property 10 ft from that defined left side property line which is the farthest direction from the waterway / creek. The developed property will respect the sensitive nature of the Spout Spring Branch waterway and will look to improve upon natural stream conservation working with the city, the Army Corp of Engineers and certified conservation resources (i.e. bank stabilization and general cleanup). The variance is requested to allow the property to be developed to accommodate a proper dwelling while optimizing the beauty of the area surrounding the creek. Without approval of this variance it will be impossible to develop the property with a dwelling.

Perhaps of note is that the property in the past has had buildings of various use located upon the property. The area defined for locating a dwelling / residence as described above has over the years been leveled and as a result the side closet to the waterway is approximately 4ft higher than the normal creek side elevation.

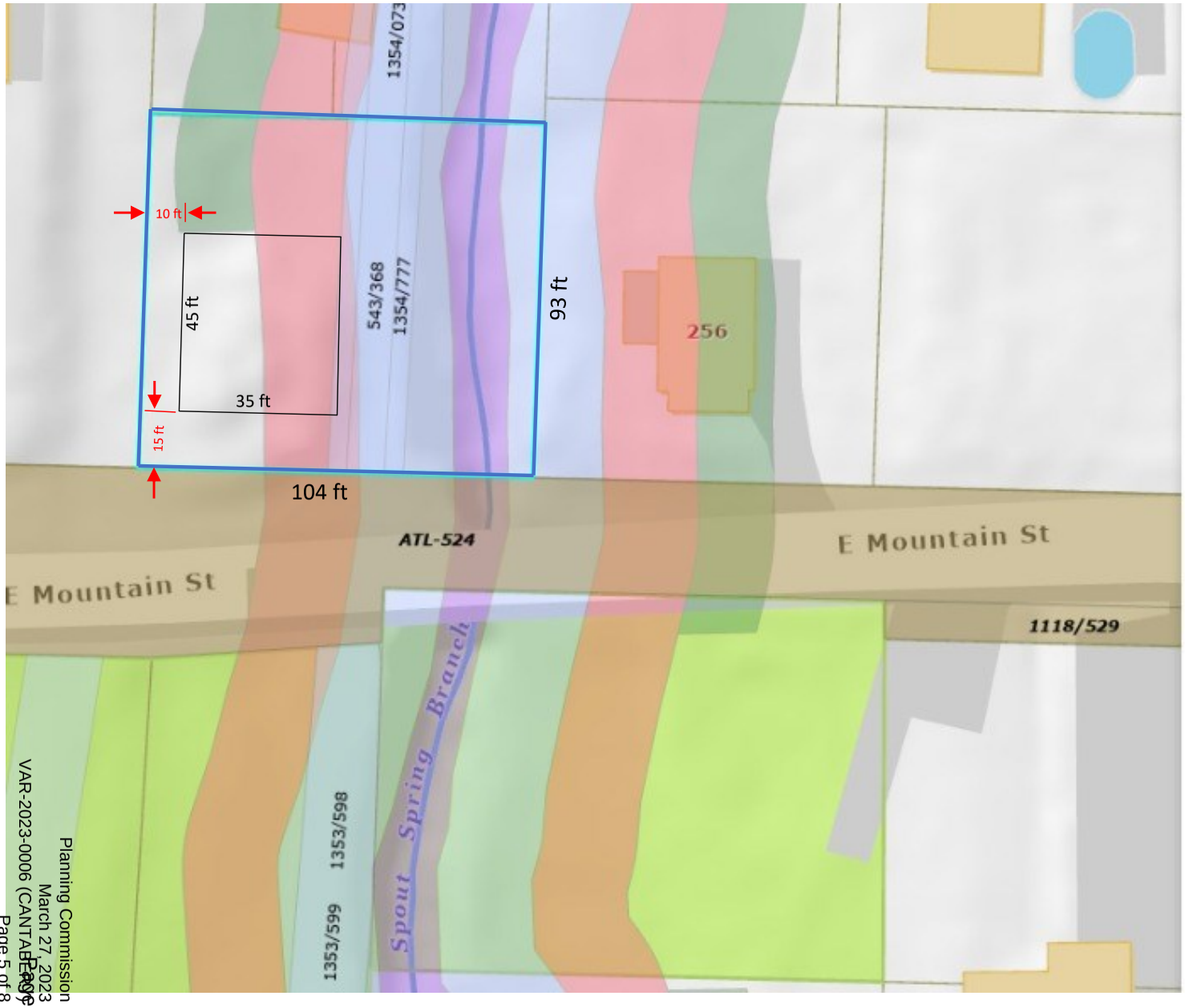
If you have any questions or would like additional information regarding my request, please feel free to contact me by phone, email or text to the numbers below.

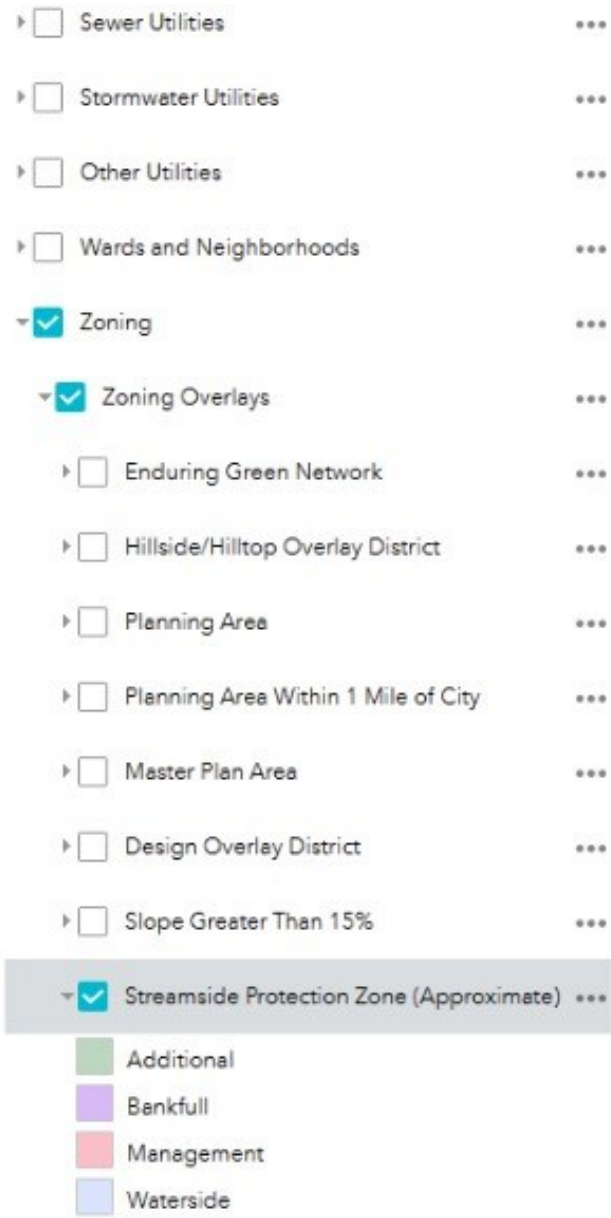
Sincerely,



Fredrick (Rick) Cantabery
484-716-6176
Hawkeyeark@icloud.com

Parcel 765-12776-000





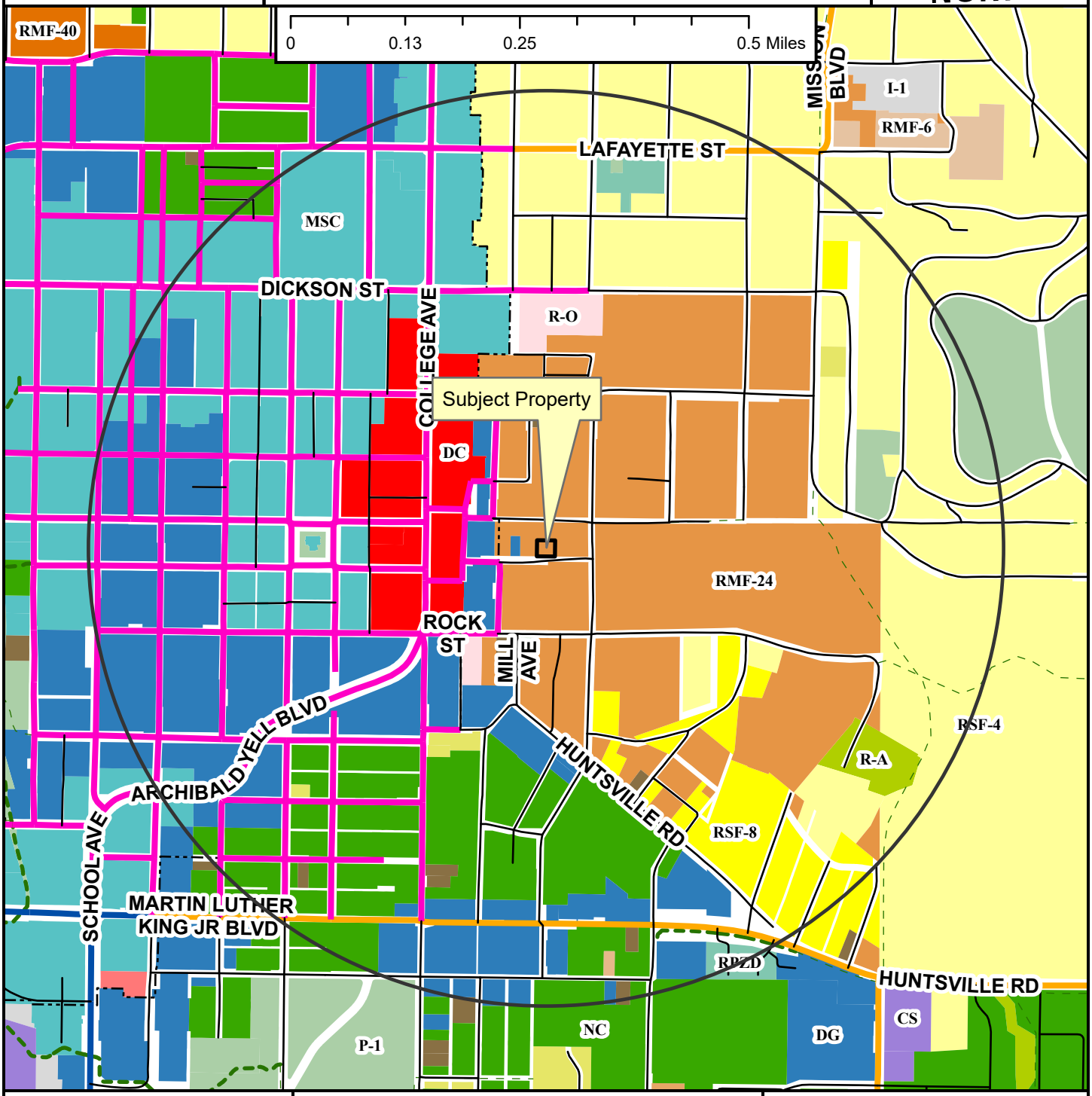
- Blue outline represents the property boundry
- Black outline represents the dwelling boundry

VAR-2023-0006

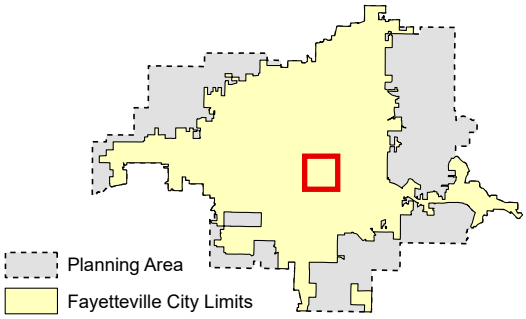
One Mile View

E. MOUNTAIN ST

NORTH



- Neighborhood Link
- Regional Link - High Activity
- Urban Center
- Unclassified
- Alley
- Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Fayetteville City Limits
- Planning Area



Zoning

RESIDENTIAL SINGLE-FAMILY
- NS-G
- RI-U
- RI-12
- NS-L
- Residential-Agricultural
- RSF-.5
- RSF-1
- RSF-2
- RSF-4
- RSF-7
- RSF-8
- RSF-18

RESIDENTIAL MULTI-FAMILY
- RMF-6
- RMF-12
- RMF-18
- RMF-24
- RMF-40

INDUSTRIAL
- I-1 Heavy Commercial and Light Industrial
- I-2 General Industrial

EXTRACTION
- E-1

COMMERCIAL
- Residential-Office
- C-1
- C-2
- C-3

FORM BASED DISTRICTS
- Downtown Core
- Urban Thoroughfare
- Main Street Center
- Downtown General
- Community Services
- Neighborhood Services
- Neighborhood Conservation

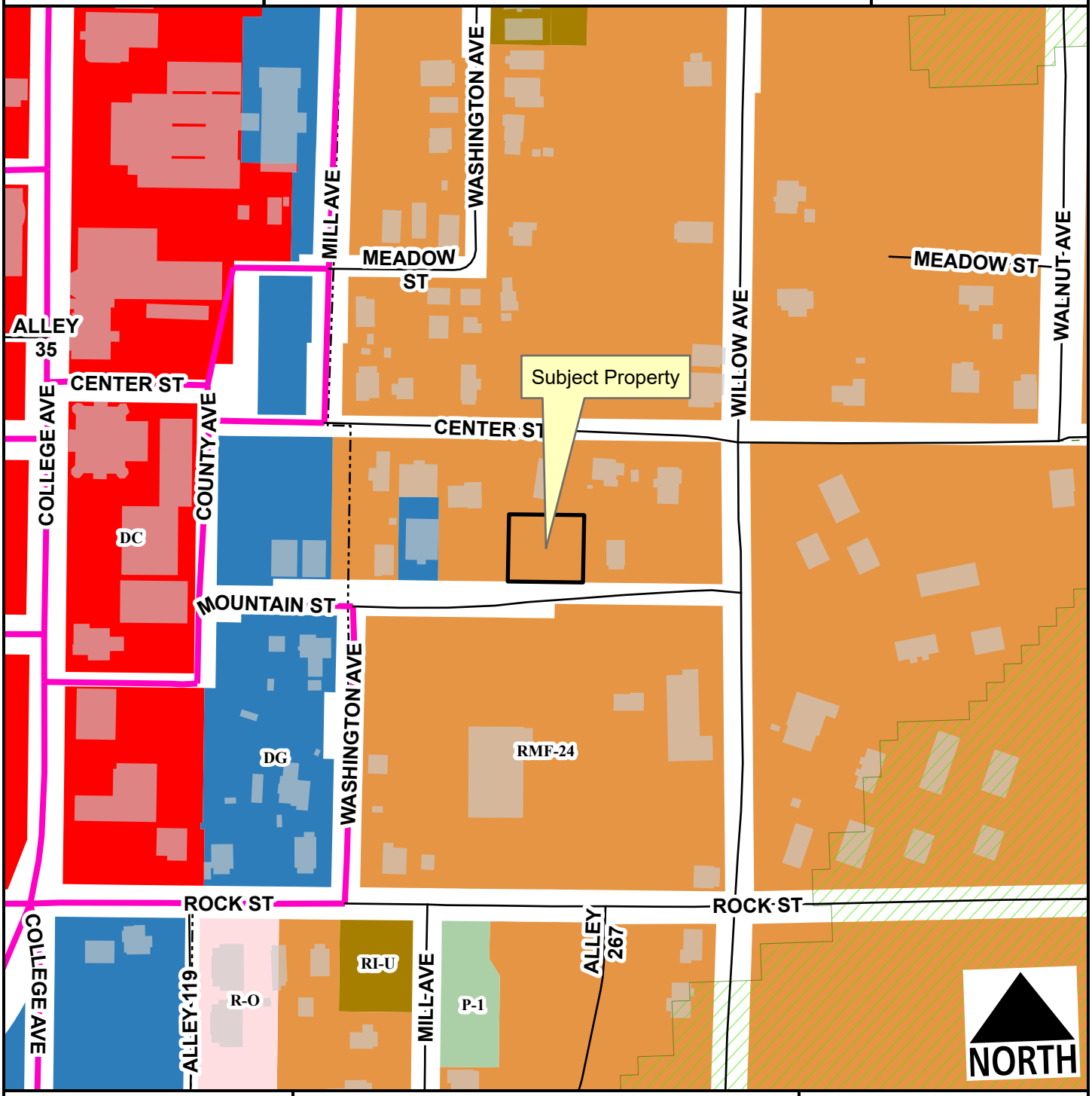
PLANNED ZONING DISTRICTS
- Commercial, Industrial, Residential

INSTITUTIONAL
- P-1

VAR-2023-0006

Close Up View

E. MOUNTAIN ST



- Urban Center
- Unclassified
- Alley
- Residential Link
- Hillside-Hilltop Overlay District
- Planning Area
- Fayetteville City Limits
- Trail (Proposed)
- Design Overlay District

Feet

0 75 150 300 450 600

1:2,400

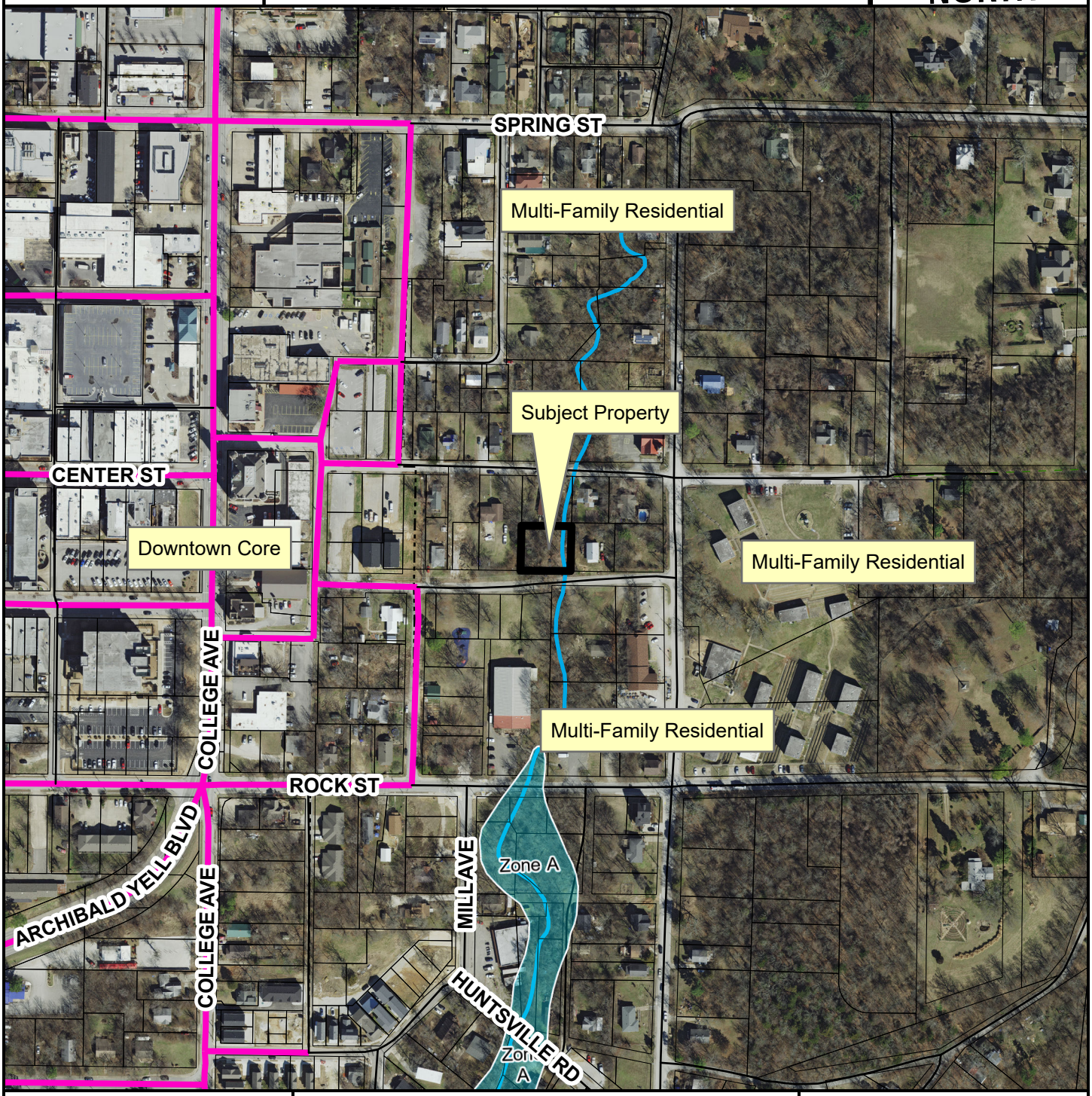
- RI-U
- RMF-24
- Residential-Office
- Downtown Core
- Downtown General
- P-1

VAR-2023-0006

Current Land Use

E. MOUNTAIN ST

NORTH



- Urban Center
- Unclassified
- Alley
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- Trail (Proposed)
- Planning Area
- Fayetteville City Limits
- Design Overlay District

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: City of Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager
Chris Brown, Public Works Director

FROM: Gretchen Harrison, Planner
Alan Pugh, Staff Engineer
Josh Boccaccio, Engineering Development Review Manager

MEETING DATE: March 27, 2023

SUBJECT: **VAR-2023-0009: Variance (EAST OF W. CUSTER LN./STRICKLIN, 598):** Submitted by COMMUNITY BY DESIGN for property located EAST OF W. CUSTER LN. The property is zoned RI-U, RESIDENTIAL INTERMEDIATE-URBAN and contains approximately 3.10 acres. The request is for a variance from parking lot surfacing standards and streamside protection zone requirements.

RECOMMENDATION:
Staff recommends approval of **VAR-2023-0009** based on the findings contained in this report.

RECOMMENDED MOTION: *"I move to approve **VAR-2023-0009**, determining:*

- *In favor of a variance to UDC §168.12,*
- *In favor of a variance to UDC §172.02(B), and*
- *In favor of all other conditions as recommended by staff."*

BACKGROUND:
The subject property is in southwest Fayetteville approximately 300 feet south of the intersection of Custer Lane and 18th Street. The property contains three lots totaling roughly 3.10 acres and is zoned RI-U, Residential Intermediate - Urban. The property is located within the Fayette Junction Neighborhood Plan area and the I-540 Overlay District. Aside from overhead electric lines, the property is undeveloped and largely covered by mature tree canopy. An unnamed tributary of the Town Branch, part of the Beaver Reservoir, bisects the property. The tributary is protected per the streamside protection ordinance, and its associated protection zone encumbers roughly half of the site. Surrounding land uses and zoning is depicted in *Table 1.*

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Mixed-Density Residential	C-1, Neighborhood Commercial
South	Single-Family Residential	C-1, Neighborhood Commercial; RSF-4, Residential Single-Family, 4 Units per Acre
East	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
West	Mixed-Density Residential	RSF-4, Residential Single-Family, 4 Units per Acre

Request: The applicant has requested two variances from the Unified Development Code. A third variance from the City's parking lot design standards was requested by the applicant, though in

reviewing their submittal, staff determined that that variance was not needed. The other two variances are described further below alongside staff's recommendations:

- **§168.12: Streamside protection zone regulations.** The applicant has requested a variance to these standards to allow for the construction of permeable pavement inside the management zone. The applicant has stated that this variance is necessary in order to provide a safe fire access to the proposed development.
    - *Staff recommendation: Staff is supportive of this variance request. As stated, the subject property was platted before the streamside protection zones went into effect and has remained vacant according to aerial photographs. The proposed development has avoided much of the streamside zone in its entirety but is proposing to encroach into the management zone in two locations. The locations are shown on the attached exhibits. The area of largest encroachment is located on the southern end of the property and would contain a retaining wall with pervious pavement drive aisles and some parking. The area of encroachment further north would contain a retaining wall and area of pervious paving drive aisle. While avoidance is preferred, the applicant has made provisions to utilize pervious paving above what is required to help offset any negative impacts of the encroachment while avoiding large areas of the streamside zones altogether, especially on the northern and western side of the property. The pervious pavement would help slow and filter the water prior to entering the stream system which is a component of the intent of the streamside protection ordinance.*

- **§172.02(B): Parking lot surfacing requirements.** The applicant has requested a variance to these standards to allow for the construction of a pavement surface and subgrade that consists of angular and washed gravel along secondary drives and parking areas. The surface layer of the secondary drives and parking spaces would be approximately four inches of brown washed chip while the subgrade generally consists of clean limestone. Plastic matting is proposed for the drive aisles but not for the individual parking spaces.
    - *Staff recommendation: Staff is supportive of this variance request. The applicant has proposed to use a gravel pavement section for the drive areas around structures and parking spaces. A plastic mat is proposed in the drive area around the structures and Engineering staff has noted that this mat must encompass the entire drive width. No mat is proposed in the individual parking spaces. The slopes of the gravel pave area range from 2-3%, so migration of gravel material is not a major concern. The gravel pavement system will be required to be designed based on the requirements of the City's Drainage Criteria Manual.*

Public Comment: To date, staff has received no public comment on this item.

RECOMMENDATION: Staff recommends approval of **VAR-2023-0009** with the following conditions:

<u>Conditions of Approval</u>:

1. Planning Commission determination of a variance to UDC §168.12. *Staff recommends in favor of this variance for the reasons stated in this report;*

2. Planning Commission determination of a variance to §172.02(B). *Staff recommends in favor of this variance for the reasons stated in this report;*

3. Approval of this item does not constitute approval of any associated plans or permits. The applicant shall obtain all required permits including, but not limited to, a building permit and grading permit;

4. The applicant shall utilize permeable pavements as shown and installed per the City of Fayetteville requirements to offset encroachment into the streamside zones. The gravel pavement system shall also be required to be designed based on the requirements of the City's Drainage Criteria Manual; and

5. The current owner shall disclose to any potential buyer that this property is subject to the streamside ordinance and they will be responsible for compliance as the owner. This disclosure shall include a description of the purpose of any features constructed to comply with this variance request and the fact that the features must be maintained in order for the lot to remain in compliance.

PLANNING COMMISSION ACTION: Required YES
Date: March 27, 2023 ❒ Tabled ❒ Approved ❒ Denied
Motion:
Second:
Vote:

FINDINGS OF THE STAFF

§156.03. DEVELOPMENT, PARKING AND LOADING.

Certain variances of the development, parking and loading regulations may be applied for as follows:

…

C. Consideration by the Planning Commission.

…

7. *Flood Damage Prevention Code.* The Planning Commission shall hear and decide requests for variances from the requirement of this ordinance.

…

(i) Streamside Protection Zones.

(i) *Undue Hardship.* If the provisions of the Streamside Protection Zones are shown by the owner or developer to cause undue hardship as strictly applied to the owner or developer's property because of its unique characteristics, the Planning Commission may grant a variance on a permanent or temporary basis from such provision so that substantial justice may be done and the public interest protected, provided that the variance will not have the effect

of nullifying the intent and purpose of the Streamside Protection regulations.

Finding: **The subject lots were created prior to the adoption of the City's streamside protection ordinance and, as defined, take up approximately half of the existing property. Staff finds that the applicant has taken reasonable steps to limit encroachment into the streamside zones to a very small percentage of the overall streamside zone area while still making use of the property. Pervious pavements are proposed to help offset the encroachment and slow and filter the water, in keeping with the original intent of the ordinance.**

(ii) *Consideration of alternative measures.* The applicant for the variance shall establish that a reasonable rezoning by the City Council or variance request from the Board of Adjustment will not sufficiently alleviate the claimed undue hardship caused by the Streamside Protection regulations.

Finding: **A rezoning by the City Council or variance request from the Board of Adjustment would not change the extent of the streamside protection zone and would not alleviate the need for a variance in this case.**

(iii) *Conditions and safeguards.* In granting any variance, the Planning Commission may prescribe appropriate conditions and safeguards to substantially secure the objectives and purpose for the regulations so varied and to mitigate any detrimental effects the variance may cause. The Planning Commission should consider the Streamside Protection Best Management Practices Manual and any mitigation recommendations from the City Engineer.

Finding: **Staff recommends conditions of approval as listed above.**

BUDGET/STAFF IMPACT:
None

ATTACHMENTS:

- Engineering Memo
- Applicant Request Letter
- Site Plan
- One Mile Map
- Close Up Map
- Current Land Use Map

CITY OF
FAYETTEVILLE
ARKANSAS

STAFF MEMO

TO: Gretchen Harrison, Planner

FROM: Josh Boccaccio, Engineering Development Review Manager

DATE: March 22, 2023

SUBJECT: **Planning Commission Engineering Comments for VAR-2023-0009**

Discussion:

Engineering supports the applicants request for a variance to Parking Lot Design Standards Paving Materials UDC 172.02(B). The applicant has proposed to use a gravel pavement section for the drive areas around the structures and parking spaces. A plastic mat is proposed in the drive area around the structures. This mat must encompass the entire drive width.

No mat is proposed in the individual parking spaces.

The slopes of the gravel pave area range from 2-3% so migration of the gravel material is not a major concern.

The gravel pavement system must be designed based on the requirements of the City of Fayetteville's Drainage Criteria Manual.

community.by.design
TOWN PLANNING.URBAN ENGINEERING

February 27, 2023
Via EnerGov

Ms. Jessica Masters
Zoning and Development Administrator
City of Fayetteville
125 West Mountain Street
Fayetteville, Arkansas 72701

RE: Custer Lane Master Residential Building Permit Site Plans – Variance Requests – Streamside Protection Zones (UDC 168.12, Parking Lot Design Standards Dimensions (UDC 172.04(E)), and Parking Lot Design Standards Paving Materials (UDC 172.02(B))

Ms. Masters,

Please allow this letter to serve as a variance request from both the City of Fayetteville's Streamside Protection Zone Ordinance and the Parking Lot Design Standards. The variances would apply to proposed development on existing Washington County Parcels 765-09853-000, 765-04067-000, and 765-04068-000, which contain 3.11 acres and are zoned RI-U Residential Intermediate Urban. The development, as currently proposed, is shown per the attached Custer Lane Master Residential Building Permit Site Plans dated 2/27/23. Building Permit Architectural Plans are also included with this submittal, which show plans for each of the 5 buildings proposed. Generally the development plan consists of 5 duplex buildings oriented around a common court or green with an associated 40 proposed parking spaces. LSP 2022 0075 is in process which would create individual lots for each of the 5 buildings.

Parking Lot Design Standards Dimensions (UDC 172.04(E)) - This variance is requested from the dimensional requirements of the parking lot design standards that would allow for a 20' wide drive aisle for parallel parking spaces while 24' is required in parking lots. The 24' requirement is typically needed for 90-degree parking and is provided in those areas. The 20' wide drive aisle meets fire department access requirements. All together with a 20' wide drive aisle and 8' wide parallel parking on one side of the drive aisle, dimensionally the shared space is very similar to most lesser traveled, residential streets. This variance would help reduce impact to the streamside protection zone.

Parking Lot Design Standards Paving Materials (UDC 172.02(B)) – A second variance is requested from UDC 172.02(B) to allow for the construction of a pavement surface and subgrade that consists of angular and washed gravel along the secondary drives and parking spaces. The primary 20' drive lane will be constructed per the City of Fayetteville Drainage Criteria Manual's standard permeable paving asphalt section and thus this variance is not applicable in these areas. The surface layer of the secondary drives and parking spaces would be approximately 4 inches of 3/8" diameter brown washed chip while the subgrade generally consists of 1/2" or 3/4" clean limestone. The section allows for water to drain into the void spaces of the gravel and be collected in a perforated, below surface under drain. The aesthetic would be very beneficial to the residents and would also work best with other permeable paving water quality features. Plastic matting is proposed for the drive aisles but not for the individual parking spaces.

Streamside Protection Zones (UDC 168.12) – A third variance is requested from UDC 168.12 to allow for the construction of permeable pavement inside the management zone. The site contains 3.11 total acres, while 1.46 acres or 47.9% of the site is encumbered by Streamside Protection Zones (SPZ). The encroachment is summarized on the included site plans and totals 2,162 square feet, while the total size of the SPZ on the property totals 63,691 square feet, an encroachment of approximately 3.4%. Much effort has been put forth to avoid encroachments into the SPZ, including revisions to the site plans after meeting with the SPZ Administrator. In order to provide a safe fire access to the development, the small encroachment is necessary.

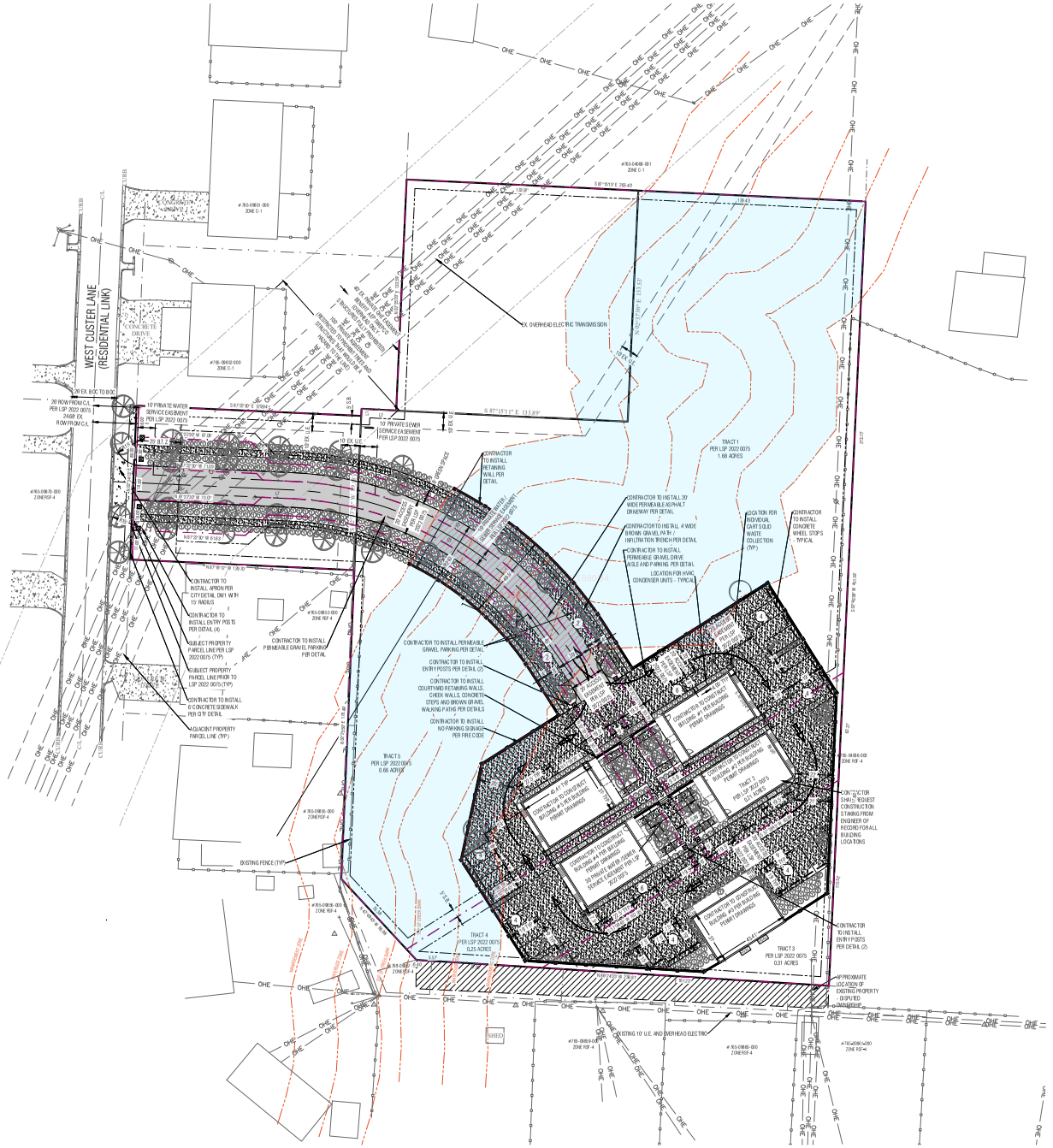
100 West Center Street Suite 300
Fayetteville, AR 72701
479.790.6775

In order to reduce impact to the adjacent stream, all new pavement is proposed to be permeable which will provide both storage and treatment of storm water before being discharged to the stream. Also, retaining walls are proposed at the edges of the improvements to minimize the footprint. The condition of the stream is questionable with evidence of some bank erosion. The west side of the stream has been used previously by others as a construction debris dump site. Bank stabilization is proposed where the stream turns sharply to the east. Selective removal of invasive species is proposed for the SPZ, while additional native landscaping is proposed for the site, above and beyond typical landscape requirements.

Thank you for considering these requests. Please let me know if you have questions or if additional information is needed.

Sincerely,

Brian Teague
Community By Design


WEST CUSTER LANE
(RESIDENTIAL LINK)
EX. OVERHEAD ELECTRIC TRANSMISSION
TRACT 1
PER LSP 2022-0075
1.68 ACRES
TRACT 2
PER LSP 2022-0075
0.66 ACRES
TRACT 3
PER LSP 2022-0075
0.31 ACRES
TRACT 4
PER LSP 2022-0075
0.25 ACRES
TRACT 5
PER LSP 2022-0075
0.66 ACRES
CONTRACTOR TO INSTALL 20' WIDE PERMEABLE ASPHALT DRIVEWAY PER DETAIL
CONTRACTOR TO INSTALL 4' WIDE BROWN GRAVEL PATH / INFILTRATION TRENCH PER DETAIL
CONTRACTOR TO INSTALL PERMEABLE GRAVEL DRIVE AISLE AND PARKING PER DETAIL
LOCATION FOR HVAC CONDENSER UNITS - TYPICAL
LOCATION FOR INDIVIDUAL CARTS SOLID WASTE COLLECTION (TYP.)
CONTRACTOR TO INSTALL CONCRETE WHEEL STOPS - TYPICAL
CONTRACTOR TO INSTALL APRON PER CITY DETAIL ONLY WITH 15' RADIUS
CONTRACTOR TO INSTALL ENTRY POSTS PER DETAIL (4)
SUBJECT PROPERTY PARCEL LINE PER LSP 2022-0075 (TYP)
SUBJECT PROPERTY PARCEL LINE PRIOR TO LSP 2022-0075 (TYP)
CONTRACTOR TO INSTALL 6' CONCRETE SIDEWALK PER CITY DETAIL
ADJACENT PROPERTY PARCEL LINE (TYP.)
CONTRACTOR TO INSTALL PERMEABLE GRAVEL PARKING PER DETAIL
CONTRACTOR TO INSTALL PERMEABLE GRAVEL PARKING PER DETAIL
CONTRACTOR TO INSTALL ENTRY POSTS PER DETAIL (2)
CONTRACTOR TO INSTALL COURTYARD RETAINING WALLS, CHECK WALLS, CONCRETE STEPS AND BROWN GRAVEL WALKING PATHS PER DETAILS
CONTRACTOR TO INSTALL NO PARKING SIGNAGE PER FIRE CODE
CONTRACTOR TO INSTALL RETAINING WALL PER DETAIL
CONTRACTOR TO INSTALL ENTRY POSTS PER DETAIL (2)
CONTRACTOR SHALL REQUEST CONSTRUCTION STAKING FROM ENGINEER OF RECORD FOR ALL BUILDING LOCATIONS
APPROXIMATE LOCATION OF EXISTING PROPERTY DISPUTED - 0.09' EAST
EXISTING 10' U.E. AND OVERHEAD ELECTRIC
EXISTING FENCE (TYP.)
10' PRIVATE WATER SERVICE EASEMENT PER LSP 2022-0075
10' PRIVATE SEWER SERVICE EASEMENT PER LSP 2022-0075
40' ROW PER LSP 2022-0075 / 60' ROW PER M/B 5 PG 1
20' ROW FROM C.L. PER LSP 2022-0075 / 70' ROW FROM C.L. PER M/B 5 PG 1
20' EX. BOC TO BOC
26' ROW FROM C.L. PER LSP 2022-0075 / 74' ROW FROM C.L.
#765-09831-000 ZONE C-1
#765-09832-000 ZONE C-1
#765-09833-000 ZONE C-1
#765-04068-001 ZONE C-1
#765-09830-000 ZONE RSF-4
#765-09835-000 ZONE RSF-4
#765-09836-000 ZONE RSF-4
#765-09837-000 ZONE RSF-4
#765-09838-000 ZONE RSF-4
#765-09839-000 ZONE RSF-4
#765-09840-000 ZONE RSF-4
#765-09841-000 ZONE RSF-4
#765-09842-000 ZONE RSF-4
#765-09860-000 ZONE RSF-4
#765-09861-000 ZONE RSF-4
#765-09862-000 ZONE RSF-4
#765-09863-000 ZONE RSF-4
#765-09864-000 ZONE RSF-4
#765-09865-000 ZONE RSF-4
#765-09866-000 ZONE RSF-4
#765-09867-000 ZONE RSF-4
#765-09868-000 ZONE RSF-4
#765-09869-000 ZONE RSF-4
#765-09870-000 ZONE RSF-4
#765-09871-000 ZONE RSF-4
#765-09872-000 ZONE RSF-4
#765-09873-000 ZONE RSF-4
#765-09874-000 ZONE RSF-4
#765-09875-000 ZONE RSF-4
#765-09876-000 ZONE RSF-4
#765-09877-000 ZONE RSF-4
#765-09878-000 ZONE RSF-4
#765-09879-000 ZONE RSF-4
#765-09880-000 ZONE RSF-4
#765-09881-000 ZONE C-1
#765-04068-001 ZONE C-1
#765-09882-000 ZONE C-1
#765-09883-000 ZONE C-1
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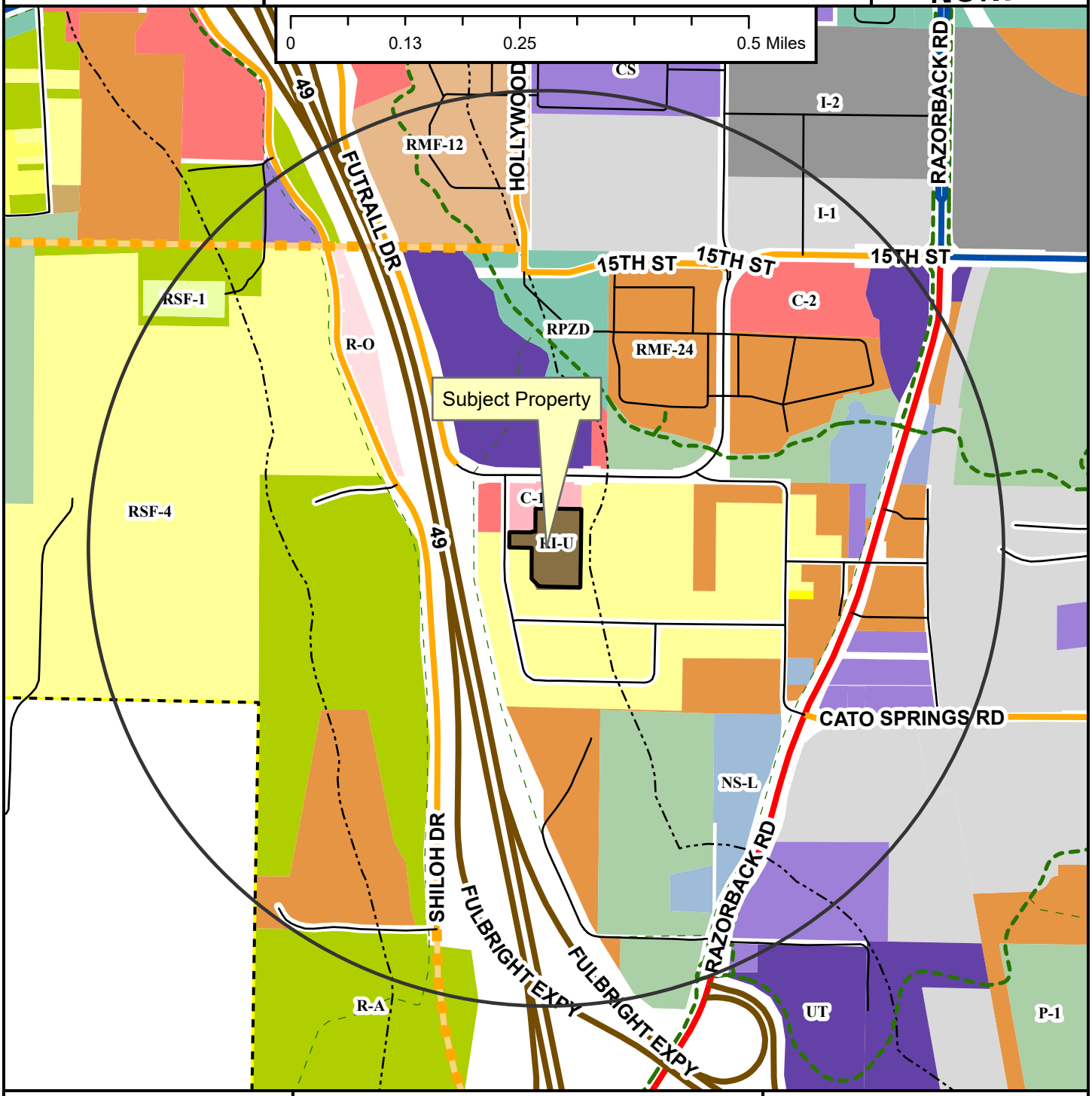
#765-09891-000 ZONE C-1
#765-09892-000 ZONE C-1
#765-09893-000 ZONE C-1
#765-09894-000 ZONE C-1

VAR-2023-0009

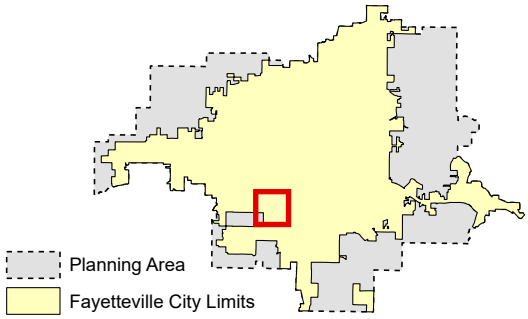
One Mile View

E. OF W. CUSTER LN.

NORTH



Regional Link
Neighborhood Link
Regional Link - High Activity
Freeway/Expressway
Unclassified
Residential Link
Planned Neighborhood Link
Shared-Use Paved Trail
Trail (Proposed)
Design Overlay District
Fayetteville City Limits
Planning Area



Zoning

RESIDENTIAL SINGLE-FAMILY
NS-G
RI-U
RI-12
NS-L
Residential-Agricultural
RSF-.5
RSF-1
RSF-2
RSF-4
RSF-7
RSF-8
RSF-18

RESIDENTIAL MULTI-FAMILY
RMF-6
RMF-12
RMF-18
RMF-24
RMF-40

INDUSTRIAL
I-1 Heavy Commercial and Light Industrial
I-2 General Industrial

EXTRACTION
E-1

COMMERCIAL
Residential-Office
C-1
C-2
C-3

FORM BASED DISTRICTS
Downtown Core
Urban Thoroughfare
Main Street Center
Downtown General
Community Services
Neighborhood Services
Neighborhood Conservation

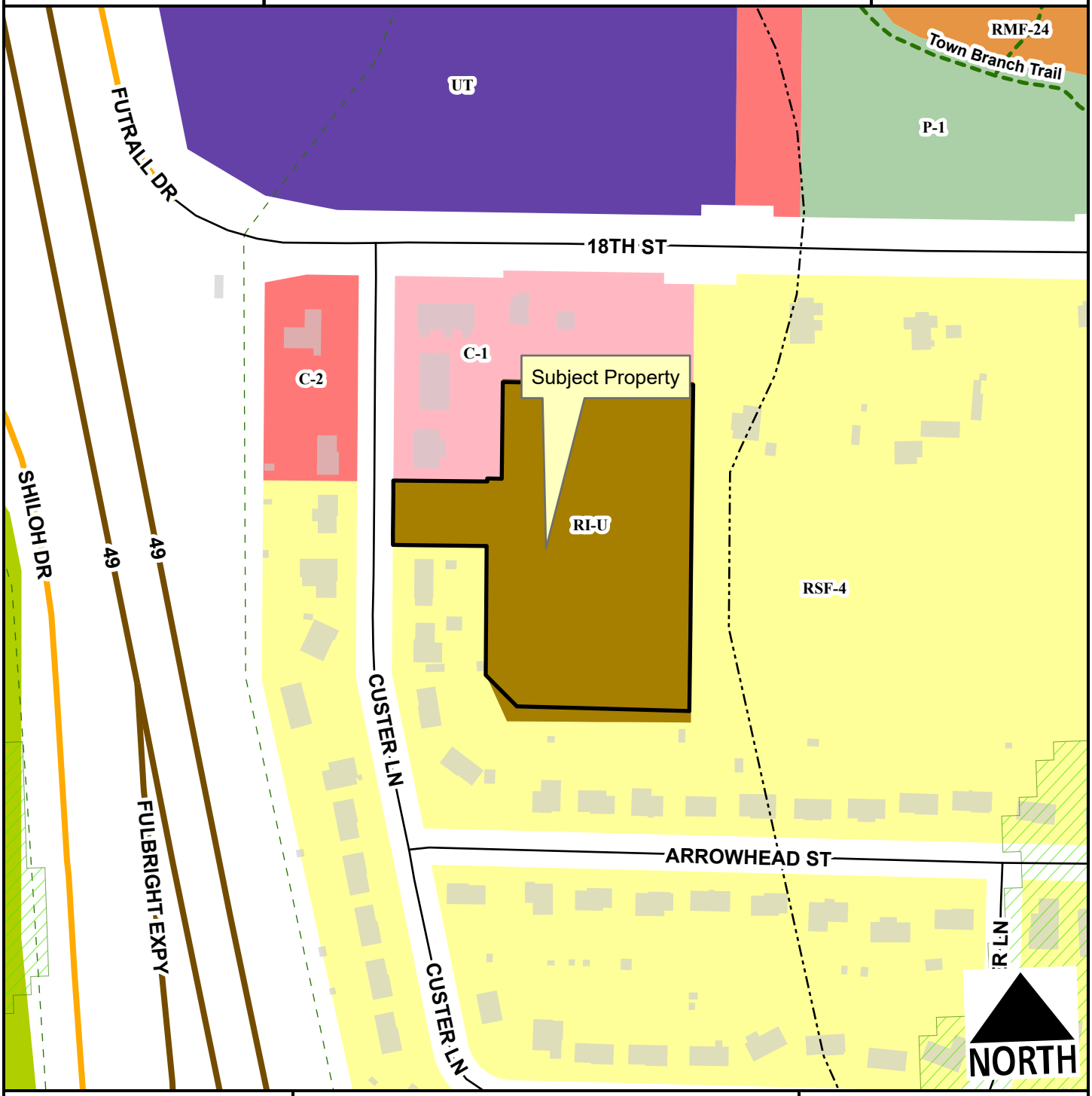
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

VAR-2023-0009

Close Up View

E. OF W. CUSTER LN.



- Neighborhood Link
- Freeway/Expressway
- Residential Link
- Hillside-Hilltop Overlay District
- Planning Area
- Fayetteville City Limits
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District

Feet

0 75 150 300 450 600

1:2,400

- Residential-Agricultural
- RSF-4
- RI-U
- RMF-24
- C-1
- C-2
- Urban Thoroughfare
- P-1

VAR-2023-0009

Current Land Use

E. OF W. CUSTER LN.

NORTH

- Neighborhood Link
- Freeway/Expressway
- Unclassified
- Residential Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits
- Design Overlay District

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

FROM: Donna Wonsower, Planner
Josh Boccaccio, Engineering Development Review Manager

THRU: Jessie Masters, Development Review Manager

MEETING DATE: March 27, 2023

SUBJECT: **VAR-2023-0010: Planning Commission Variance (2120 N. COLLEGE AVE/SLIM CHICKENS, 485):** Submitted by HFA for property located on 2120 N. COLLEGE AVE. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 0.74 acres. The request is for a variance from Driveway Separation and Driveway Width Design Standards.

RECOMMENDATION:
Staff recommends denial of **VAR-2023-0010**.

RECOMMENDED MOTION:
*"I move to deny **VAR-2023-0010.***

BACKGROUND:
The subject property is in north Fayetteville along N College Ave. The parcel is currently developed with Slim Chickens Store #1, which was constructed in 1974. The property is zoned C-2, Thoroughfare Commercial, and is part of the 71B Corridor Plan. The eastern canopied portion of the property is part of the Hillside / Hilltop Overlay District and contains slopes over 15% in the western portion of the parcel. Surrounding land uses and zoning are depicted in *Table 1.*

Table 1 - Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Restaurant	C-2, Thoroughfare Commercial
South	Commercial Strip	C-2, Thoroughfare Commercial
East	Undeveloped, Natural Area	R-O, Residential Office
West	Amusement & Recreation Facility	C-2, Thoroughfare Commercial

Request: The applicant is requesting two variances due to the triggering of the city's non-conforming ordinances. The first variance is to 166.08(F)(2)(a), which limits the distance between curb cuts onto a regional link to a minimum of 250 feet. The applicant is seeking to maintain two existing curb cuts onto N. College Ave. in their current locations. The second variance is to 172.04(F)(3)(a), which limits one-way driveways to a maximum of sixteen feet wide. The applicant requests to be allowed to exceed the maximum width for the southern driveway for in order to meet the twenty-foot access requirement for fire code.

DISCUSSION:
Staff recommends denial of the applicant's request. UDC section 166.08 limits the distance between of curb cuts onto a regional link to a minimum of 250 feet, and states that "When necessary, curb cuts along regional links shall be shared between two (2) or more lots." The intent of section 166.08 Street Design and Access Standards is to ensure that development is designed to be inherently safe, walkable, and efficient for the facilitation of traffic and pedestrian movements. Due to the demolition of the existing building and construction of a new primary structure, the any non-conforming access features are required to be brought into compliance with all applicable access management standards. Staff finds that allowing both existing driveways to remain would allow an existing public traffic hazard to continue. Nine (9) driveways currently access N. College Ave. within a 250' stretch around Slim Chickens, and there have been ten (10) vehicle crashes (including one with an incapacitating injury) within 50 feet of the property boundaries between 2017 - 2021.

The 71B Corridor Plan generally calls for reducing the number of driveway cuts and turning conflicts, improving major points of congestion and accident clusters, and improving the pedestrian environment. Specifically, Slim Chickens is designated as part of a "Restaurant District" which the plan encourages to improve into a special district through "interconnection of parking lots and connections between restaurants." Because Slim Chickens' parcel is not wide enough to meet the code within the limits of their frontage, the City Engineer has the authority under UDC 166.08(F)(3) to "reduce the separation distance of existing and proposed access points where strict compliance proves impractical, provided that joint access driveways and cross access easements are provided wherever feasible, and the ingress/egress curb cut is placed at the safest functional location along the property." This administrative reduction of driveway separation requirements with improved cross access would be in line with the recommendations of the 71B Corridor Plan.

As proposed, the plans maintain the existing twenty-foot-wide southern driveway and fourteen-foot-wide northern driveway. In staff's evaluation, we considered a reduction of the width of the southern driveway to convert to allow right-in only egress as more likely to garner support. However, UDC section 172.04 limits the width of one-way entrances to sixteen feet to prevent vehicles from using them as two-way drives despite intended markings. The Fire Marshal confirmed that one entry must be twenty feet wide to accommodate emergency access. Engineering staff recommends use of a modified curb/apron that would accommodate emergency vehicles while still maintaining separate entry and exit points for normal site traffic.

Staff does not find that a hardship is present for the property. The letter states that the property is too small and difficult to function as a drive through restaurant with only one entrance; however, the site plan provided includes two ten foot or greater vehicle travel lanes around all four sides of the new building and adjacent to the public right-of-way. In addition, while the applicant states that the two driveways have been in operation for decades, the intent of Chapter 172.08 is to allow nonconforming parking lots to remain only until such time as nonconformities are required to be mediated. An administrative means is available to the applicant to reduce the driveway separation requirement and the letter does not indicate that a shared driveway option has been pursued with either the commercial property to the north or the south.

Public Comment: Staff has received two phone inquiries regarding the request, but no comments in either support of opposition of the proposed variance.

RECOMMENDATION: Staff recommends denial of VAR-2023-0010. Should the Planning Commission vote to approve this variance, staff recommends the following conditions of approval;

Conditions of Approval:

1. **Planning Commission determination of a variance to §166.08(F)(2)(a), which states that curb cuts along regional links shall be located a minimum of 250 feet from an intersection or driveway.** Staff recommends the south driveway on the Slim Chickens property be reduced in width to only allow vehicles to enter the site at this location and require all exiting traffic to use the north driveway.

2. **Planning Commission determination of a variance to §172.04(F)(3)(a), which states that one-way access to parking lots shall be a minimum of twelve feet wide and a maximum of sixteen feet wide.** Any Fire Code requirements for minimum driveway width to access the site will need to be met.

3. Staff recommends that should a wider curb cut than would only accommodate one-way traffic be necessary for emergency vehicle access, engineering recommends use of a modified curb/apron that would accommodate emergency vehicles while still maintaining separate entry and exit points for normal site traffic.

4. Either a shared driveway or cross access easements shall be provided to both the north and south property line to encourage shared access.

5. Approval of this variance does not constitute approval for any future development;

6. Approval of this variance does not preclude application of other design requirements relating to chapter 166.08 Street Design and Access Management Standards or 172.04 Parking Lot Design Standards, to be reviewed at subsequent permit applications.

PLANNING COMMISSION ACTION: Required YES

Date: March 27, 2023 ❒ **Tabled** ❒ **Approved** ❒ **Denied**

Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:
None

Attachments:

- Unified Development Code:
  - §166.08 Street Design and Access Management Standards
  - §174.04 Parking Lot Design Standards
- 71B Corridor Exhibit
- Engineering Memo
- Applicant Request letter
- Site Plan
- Staff Driveway Exhibit
- One Mile Map
- Close-up Map
- Current Land Use Map

166.08 Street Design and Access Management Standards

…

(F) *Access Management.* Safe and adequate vehicular, bicycle, and pedestrian access shall be provided to all parcels. Residential link streets and driveways shall not detract from the safety and efficiency of bordering arterial routes. Property that fronts onto more than one (1) public street shall place a higher priority on accessing the street with the lowest functional classification, e.g., residential and neighborhood links. In a case where the streets have the same classification, access shall be from the lower volume street, or as determined by the City Engineer.

(1) *Curb Cut Separation.* For purposes of determining curb cut or street access separation, the separation distance shall be measured along the curb line from the edge of curb cut to the edge of curb cut/intersection. The measurement begins at the point where the curb cut and intersecting street create a right angle, i.e., the intersection of lines drawn from the face-of-curb to face-of-curb. The measurement ends at the point along the street where the closest curb cut or street intersection occurs; again, measured to the point where the curb cut or intersecting streets create a right angle at the intersection of face-of-curb. In all cases curb cuts shall be a minimum of 5 feet from the adjoining property line, unless shared.

(2) Separation for two (2) family, three (3) family, multi-family and nonresidential development.

(a) *Regional and Regional High Activity Links.* Where a street with a lower functional classification exists that can be accessed, curb cuts shall access onto those streets. When necessary, curb cuts along regional links shall be shared between two (2) or more lots. Where a curb cut must access the regional link, it shall be located a minimum of 250 feet from an intersection or driveway.

…

(G) *Non-Conforming Access Features.*

(1) *Existing.* Permitted access connections in place on the date of the adoption of this ordinance that do not conform with the standards herein shall be designated as nonconforming features and shall be brought into compliance with the applicable standards under the following conditions:

(a) When new access connection permits are requested;

(b) Upon expansion greater than 50% of the property's appraised or market value as established by the Washington County Assessor; or

(c) As roadway improvements allow.

(d) With development of a new primary structure on the property.

…

(Code 1965, App. C., Art. IV, §§C, D, F—H; Ord. No. 1750, 7-6-70; Ord. No. 1801, 6-21-71; Ord. No. 2196, 2-17-76; Ord. No. 2353, 7-5-77; Code 1991, §§159.45, 159.58, 159.51—159.53; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4757, 9-6-05; Ord. No. 4919, 9-05-06; Ord. No. 5156, 8-5-08; Ord. No. 5296, 12-15-09; Ord. No. 5546, 12-04-12; Ord. No. 5642, 12-03-13; Ord. No. 6179 , §1, 4-16-19; Ord. No. 6207 , §§1—4, 7-16-19; Ord. No. 6244 , §1, 10-1-19; Ord. No. 6350 , §4(Exh. C), 8-18-20)

172.04 Parking Lot Design Standards

….

(F) *Parking Lot Circulation.*

…

(3) *Entrances and Internal Aisle Design for Parking Lots Containing 8 Parking Spaces or Less.* The driveway width into parking lots shall meet the following requirements:

(a) *Entrances.*

(i) *One-Way Access to Parking Lots.* If the driveway is a one-way in or one-way out, then the driveway width shall be a minimum of 12 feet and a maximum of 16 feet. Parking lots shall not be located more than 100 feet from the street right-of-way. Commercial solid waste service is required.

(ii) *Two-Way Access to Parking Lots.* For two way access, the driveway width shall be a minimum of 12 feet and a maximum of 24 feet. Parking lots shall not be located more than 100 feet from the street right-of-way. This standard shall only apply when a 2-yard dumpster is allowed.

(iii) *Driveway Width Requirements for Parking Lots Located 100 Feet or More from the Street Right-of-Way.* Two (2) drive lanes a minimum width of 10 feet each, up to a maximum combined width of 24 feet, shall be required for adequate parking lot access.

(iv) *Effective Curb Radius.* All driveway entrances serving 8 or less parking spaces shall have a minimum effective curb radius of 10 feet and a maximum of 20 feet.

…

(Ord. No. 4725, 7-19-05; Ord. No. 4855, 4-18-06; Ord. No. 4917, 9-05-06; Ord. No. 5044, 8-07-07; Ord. No. 5079, 11-20-07; Ord. No. 5297, 12-15-09; Ord. No. 5592, 06-18-13; Ord. No. 5680, 4-15-14; Ord. No. 5841 , §§1—3, 1-5-16; Ord. No. 5859 , §2, 3-15-16; Ord. No. 6325 , §1, 6-16-20; Ord. No. 6350 , §9(Exh. G), 8-18-20)

THE ACCESS FRAMEWORK

Route 71B and its predecessor facilities developed as the primary transportation route through Northwest Arkansas, connecting its communities and becoming its primary artery for commerce. Appropriately, concepts for a future multi-modal, urban corridor start with the supporting transportation structure. The transportation system analysis in Chapter Two suggested that many of the functional and safety problems along 71B, and primarily the College Avenue segment, stem from a dependence on this single corridor for regional, intra-city, and local movements. This is largely caused by the lack of a web of connecting streets to provide alternatives for moving to, through, and around the corridor.

OVERALL STRATEGIES

The overall Transportation Framework, then, proposes the following strategies:

- Developing a street network that complements North College Avenue and to a lesser degree South School Avenue. This provides alternative routes for local circulation, helping to reduce congestion, traffic conflicts, and potentially crashes along the street and at major intersections.
- Managing access along the corridor and reducing the number of driveway cuts and turning conflicts. Techniques to retain good local access include building alternative routes, providing more public street intersections to replace curb cuts and improve user orientation, and establishing shared access points with better interconnections among existing parking lots and driveways.
- Modifying street sections along 71B itself to improve pedestrian and in some cases bicycle access, calming traffic where needed, and "right-sizing" segments of the corridor to be more consistent with actual traffic volume.
- Improving major points of congestion and clusters of crashes.
- Improving pedestrian and bicycle crossings of the corridor.
- Developing a parallel shared use path system that provided access to most of the corridor's present and future destinations and connects to the regional trail system, including the Razorback Greenway and the planned Sublett Creek Trail.
- Enhancing public transportation for local access and accommodating a future regional bus rapid transit (BRT) line with specific station stops.
- Using the above features to open land for future mixed-density development with a major residential component.

ACCESS FRAMEWORK COMPONENTS

The Access Framework is built on the following components, illustrated in the Access Framework Maps on successive pages.

71B Main Line

This is the main South School/Archibald Yell/College Avenue route between Cato Springs and the north city limits. Starting from the south, South School with its high capacity and relatively low volume would be converted to three-lane section (two direct and a center two-way turn lane) with protected bicycle lanes and continuous sidewalks on both sides. The Fayetteville Mobility Plan proposes a three-lane section with a shared use path and sidewalk for the Archibald Yell segment. The North College segment between North and Millsap would retain four through lanes with a raised median or a two-way center turn lane, depending on specific contexts and access needs.

Where techniques like interconnected parking lots, shared driveways, "slip lanes," redesigned parking lot circulation are feasible without adverse impact to businesses, medians would be used to reduce traffic conflicts, increase safety and pedestrian access, and improve visual quality. Where land use patterns make this impossible, two-way turn lanes will be used, using patterned pavement to provide better definition and appearance.

Existing Circulator and Collector Streets

These existing streets either complement College and South School or provide east-west access to provide alternative routes to the main corridor. They are the foundation of the local street network and can provide routes for local traffic with better connectivity. For example, Villa Boulevard and Plainview parallel College could help relieve local traffic on College. But Villa's angle of intersection with College is very acute and is currently closed and Plainview is discontinuous. Sunbridge, Drake, Appleby, Rolling Hills, Harold, Longview, and Millsap all connect to the College corridor from the west and east. However, these streets sometimes have offset intersections or lack connections to other functional streets. As a result, this part of the corridor still depends on College for both local and regional circulation.

New Circulator/Collector Streets

New street segments can complete new routes to reduce local and turning traffic on College. Some of these new connections would also serve new development areas. The most important and promising of these is combining Appleby Drive and an extended Plainview Avenue to create a north-south parallel route. This new route establishes a new public street through the existing Fiesta Square parking lot and would ultimately connect across the Fulbright Expressway to Mall Avenue. Rolling Hills Drive would intersect to this new street with a roundabout within the current Fiesta Square site. Connections of Longview, Masonic, and Harold west to the new Plainview connection completes an effective circulation grid to relieve local traffic on College. Realignments of Masonic and relocation of the traffic signal to the south can provide a better western access for the Whole Foods center, and increase the distance between signals at Millsap and Masonic. Extending North Front south to Harold Street with future redevelopment relieves the lack of an outlet for Millsap east of College and provide a circulator route for businesses and development on the east side of College Avenue.

Major Intersection Redesign

Some major intersections in the 71B study area present chronic problems for all users and warrant special consideration. These include the Archibald Yell/Rock/and College intersection and the North College/Fulbright Expressway interchange. Both were addressed in the Mobility Plan, and refined concepts are provided later in this plan.

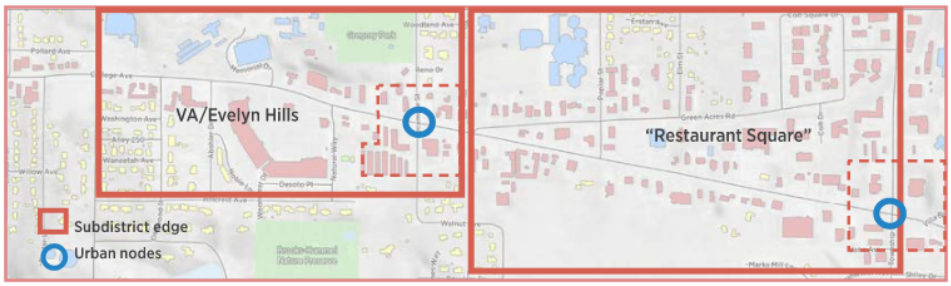
Private Connected Circulation Routes

These are drives or parking aisles that either are or can be connected to provide better access between individual properties. They can help reduce the number of curb cuts along the street, again reducing traffic conflicts. When two-way turn lanes are used on parts of College, these curb cuts should line up across from each other wherever possible.

Off-Street Trail Network

The Access Framework and street sections propose continuous sidewalks on both sides of South School and College Avenue, and upgrading the existing sidewalk on at least one side of Archibald Yell. Beyond sidewalks

VA/MIDTOWN SOUTH: North to Township



Subdistrict edges | Urban place intersections | Special Development Area | Intensity Nodes

FACTORS TO CONSIDER

- Transition from a small block grid to mid-century development patterns with longer blocks and less street continuity. Topography reinforces this transition and works against connectivity
- Scull Creek Trail (Razorback Greenway) parallels 71B about 3/4 mile west, but not strongly connected to College Avenue corridor.
- Future destination of proposed Sublett Creek Trail.
- Large institutional presences of UAMS and VA Campuses.
- Evelyn Hills Shopping Center and neighborhood connections. Evelyn Hills is Fayetteville's original large multi-tenant retail center.
- City owned natural area north of Lake Lucille and future trail connection.
- Proximity to parks and schools, including Gregory Park. Wilson Parks, and Woodland Junior High
- Influence of University community and related housing.
- Redevelopment and infill potential along this section of the corridor.
- Drainage and related flood zone on western side of corridor.

GENERAL DISTRICT DEVELOPMENT RECOMMENDATIONS

- Recognize roles of local businesses, restaurants, and key medical/institutional uses. Provide a regulatory framework that recognizes their need for identity and access.
- Encourage visual and pedestrian linkages and parking lot cross-access to help fuse similar uses, such as locally-owned restaurants, into a unified "district."
- Apply urban density node requirements and standards to the Sycamore, Poplar, and Township intersections to the degree permitted by existing viable uses.
- Provide step-downs in use intensity, scale, and height in transition areas between the College Avenue corridor and adjacent, largely single-family development to the east and west.
- Require new development dedications or existing development retrofits to provide sidewalk continuity along College and the shared use path network proposed in this plan. Identify and establish right-of-way for major regional trail connections, notably connecting the Sublett Creek and Razorback Greenway via Poplar.
- Dedicate right-of-way to establish a fine-grained collector system that diverts some local traffic from College. When dedications have an impact on private businesses, provide technical design and limited financial assistance to modify existing site design.
- In cooperation with corridor businesses and coordinated with a 71B enhancement project, implement an access management program consistent with this plan and overall regulatory recommendations presented earlier in this chapter. Use the city's ability to manage full two-way access to properties to encourage a partnership that benefits businesses, customers, and the general public.
- Implement zoning modifications with a special district in the current UDC to establish build-to zones, reduce setback requirements, require pedestrian access from public corridors, and provide height, scale, and buffer transitions to lower-density, peripheral development.

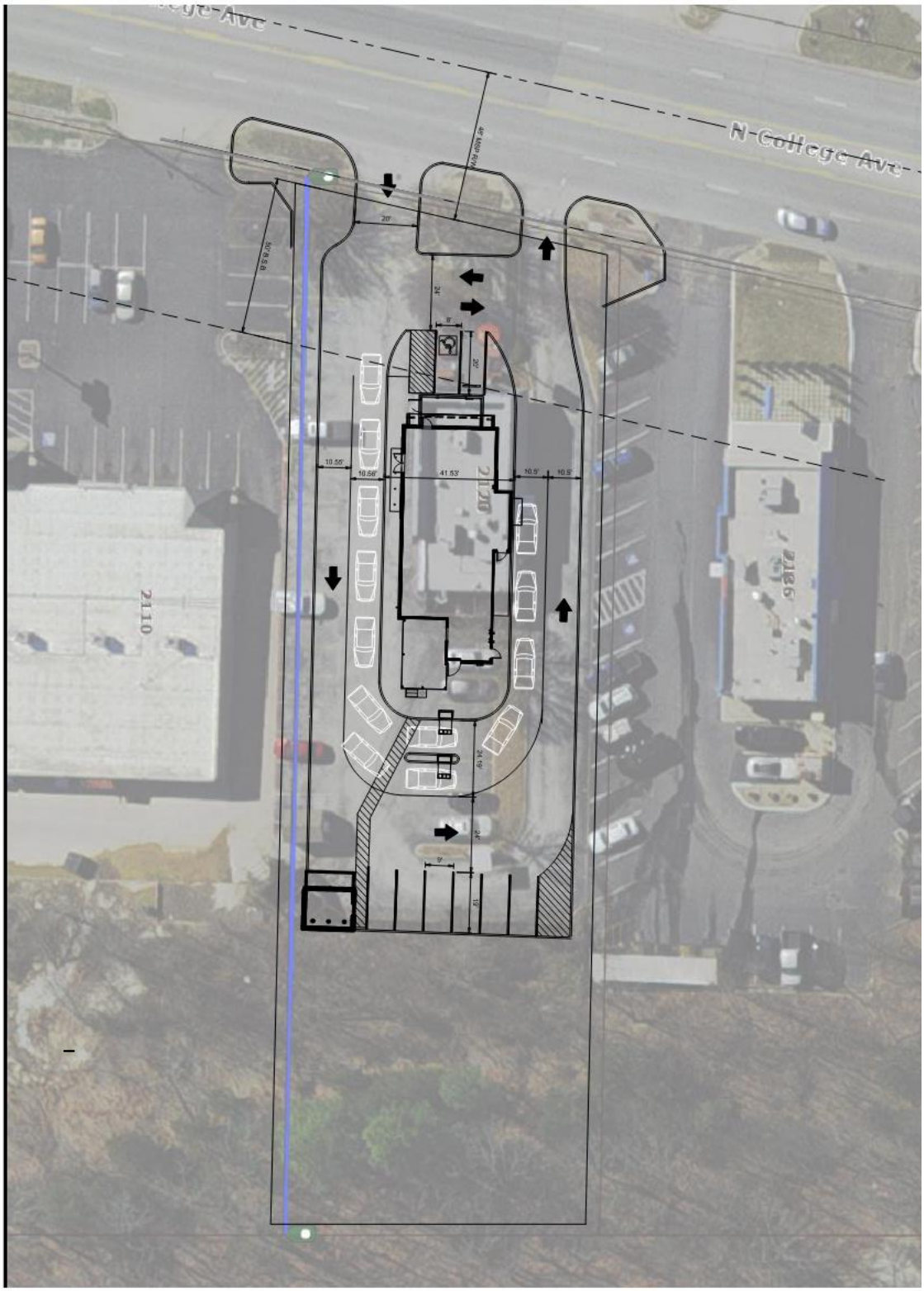
VA/EVELYN HILLS SUBDISTRICT (North Street to Green Acres Drive)

- Implement a redesign plan for Evelyn Hills through a combination of a regulatory framework and public/private partnership. Basic regulatory components informing a redesign (illustrated in Chapter 6) include a protected pedestrian connection from College Avenue crosswalks, sidewalks, or other paths; division of large surface lots into defined parking blocks; interior streets with pedestrian access; and increased capacity for future high-density ,mixed-use peripheral development.

  Incorporate a range of residential densities generally stepping down in density toward lower density adjacent development. Include provisions for semi-attached or townhome type development with access to common open space within or near the development.

Restaurant District. Interconnection of parking lots and connections between restaurants can help this collection of unique restaurants gel into a special district. Thematic graphics, common areas for outdoor dining, and cooperative marketing can further define the district's identity and brand recognition.

APLICANT SITE PLAN



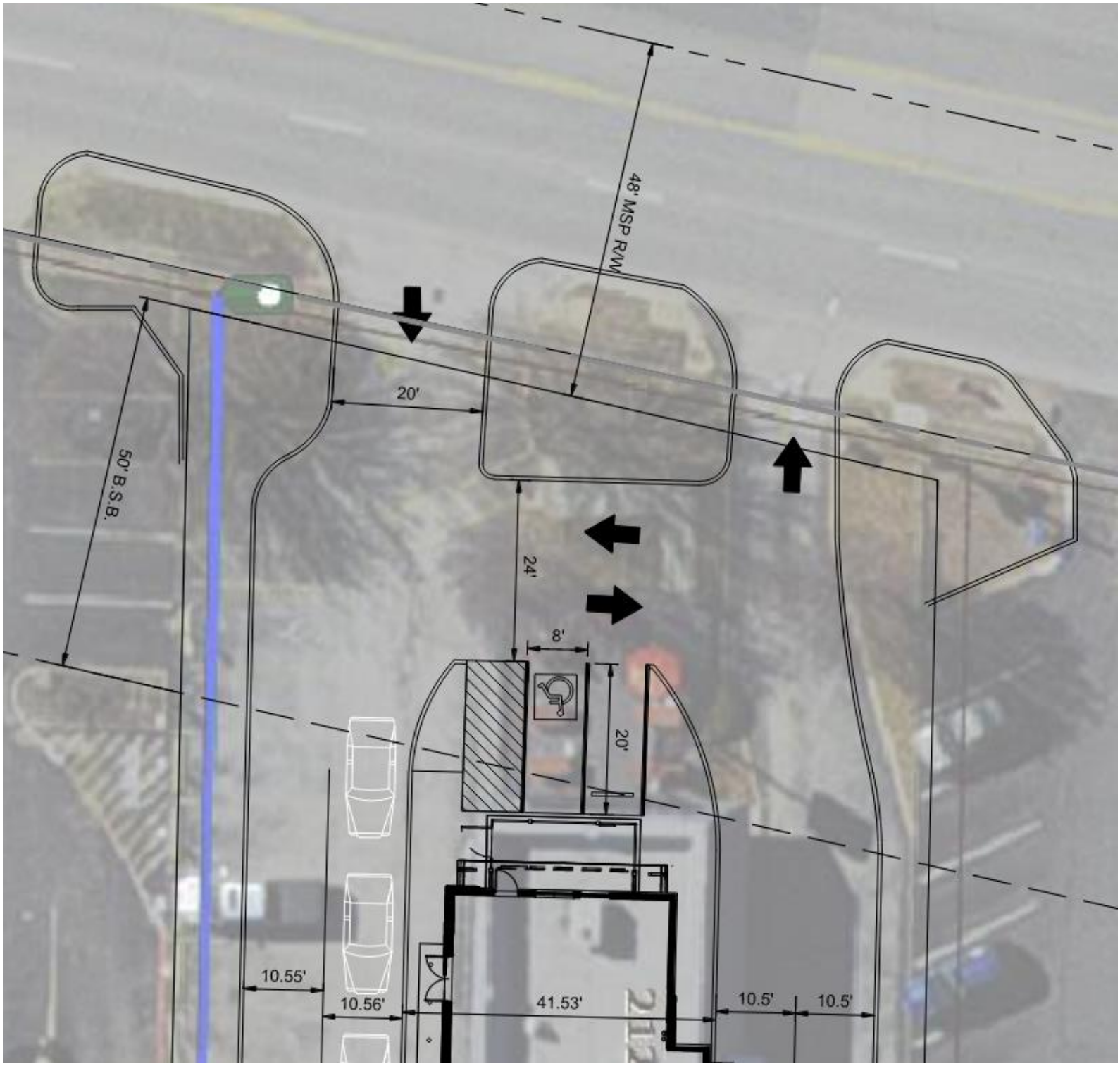
C1.0 SHEET

SITE PLAN

SLIM CHICKENS

2120 N. COLLEGE AVE.
FAYETTEVILLE, AR 72703

APPLICANT SITE PLAN CLOSEUP

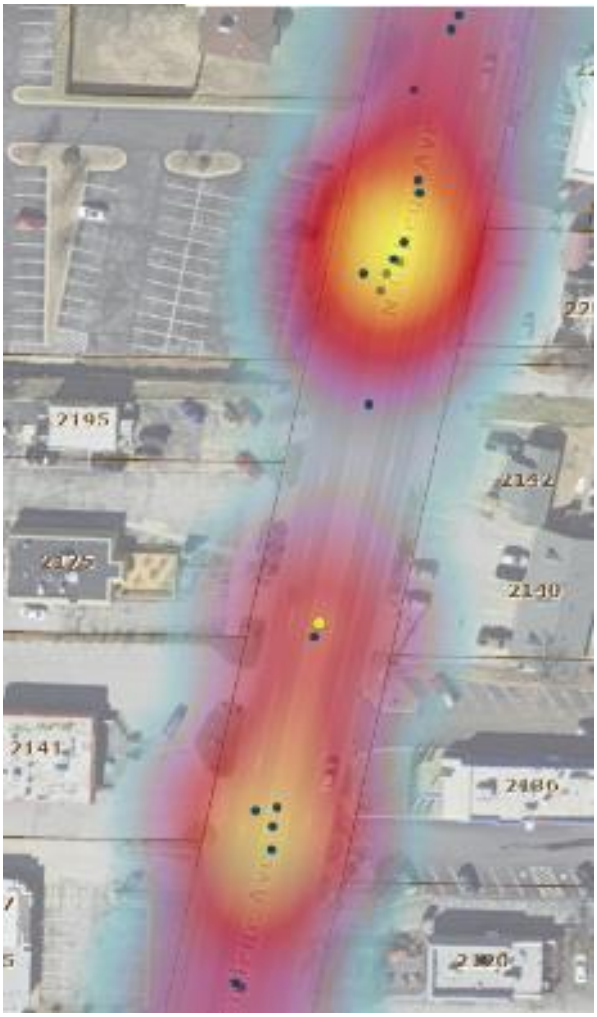


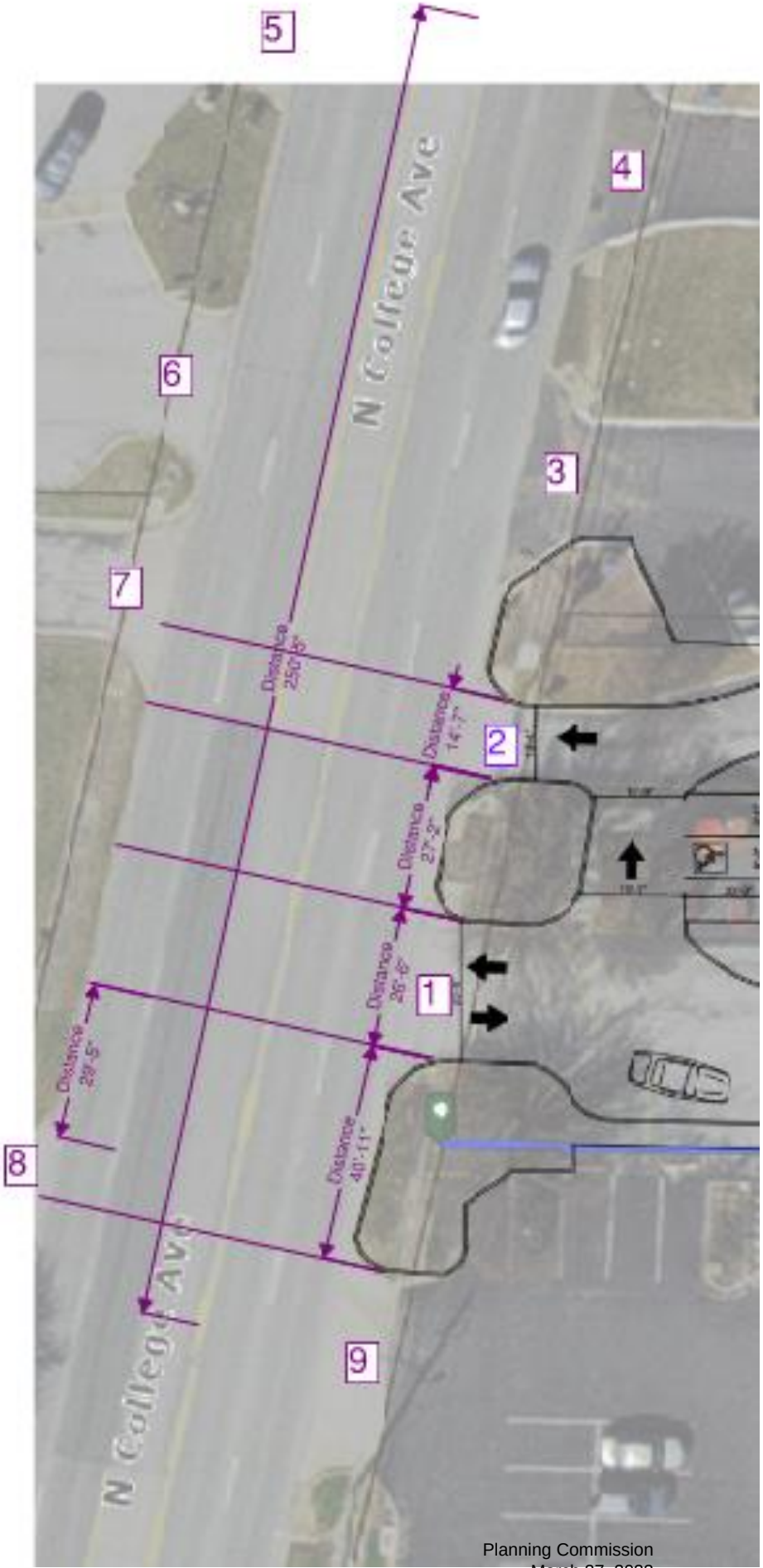
DRIVEWAY

& TRAFFIC

EXHIBIT

(STAFF)



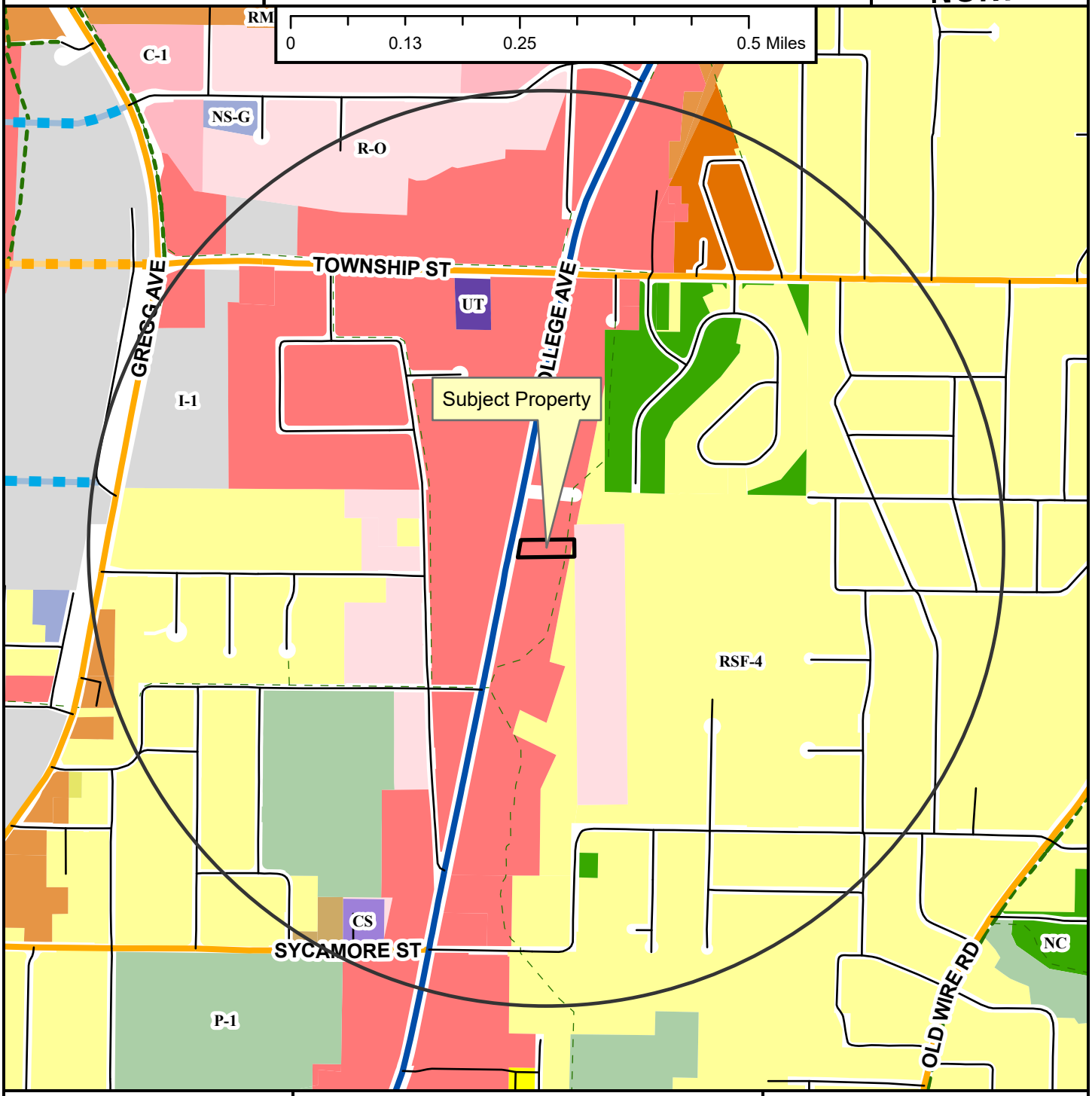


VAR-2023-0010

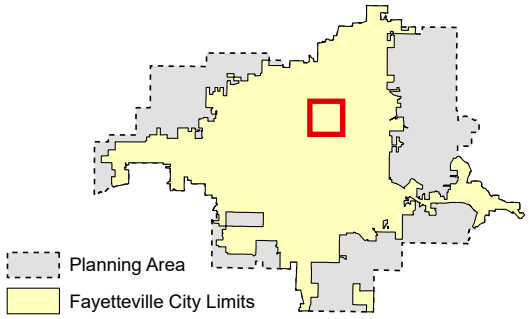
One Mile View

2120 N. COLLEGE AVE

NORTH



- Neighborhood Link
- Regional Link - High Activity
- Unclassified
- Residential Link
- Planned Neighborhood Link
- Planned Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Fayetteville City Limits
- Planning Area



Zoning

RESIDENTIAL SINGLE-FAMILY
NS-G
RI-U
RI-12
NS-L
Residential-Agricultural
RSF-.5
RSF-1
RSF-2
RSF-4
RSF-7
RSF-8
RSF-18

RESIDENTIAL MULTI-FAMILY
RMF-6
RMF-12
RMF-18
RMF-24
RMF-40

INDUSTRIAL
I-1 Heavy Commercial and Light Industrial
I-2 General Industrial

EXTRACTION
E-1

COMMERCIAL
Residential-Office
C-1
C-2
C-3

FORM BASED DISTRICTS
Downtown Core
Urban Thoroughfare
Main Street Center
Downtown General
Community Services
Neighborhood Services
Neighborhood Conservation

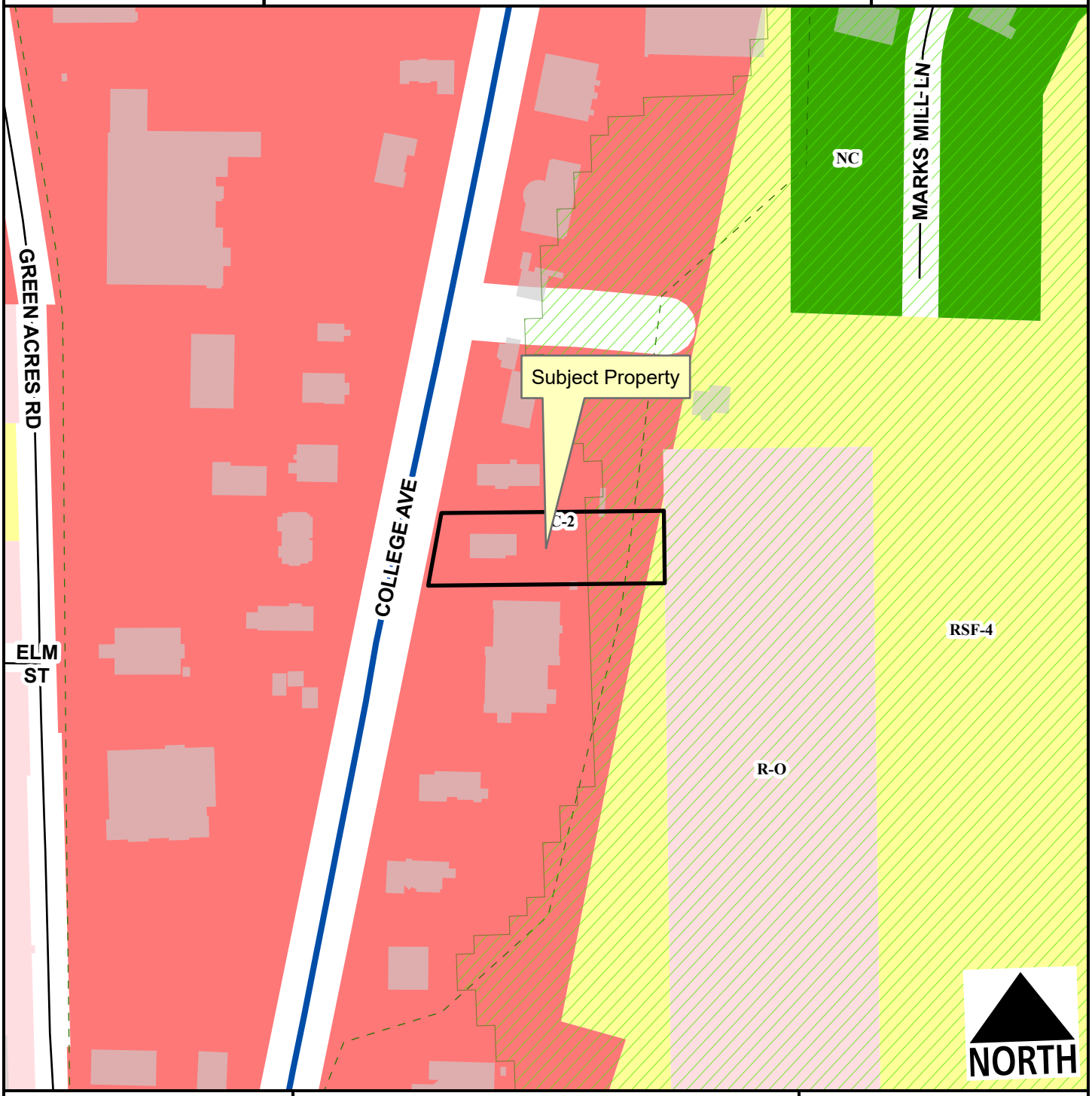
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

VAR-2023-0010

Close Up View

2120 N. COLLEGE AVE



Regional Link - High Activity
Residential Link
Hillside-Hilltop Overlay District
Planning Area
Fayetteville City Limits
Trail (Proposed)

Feet
0 75 150 300 450 600
1:2,400

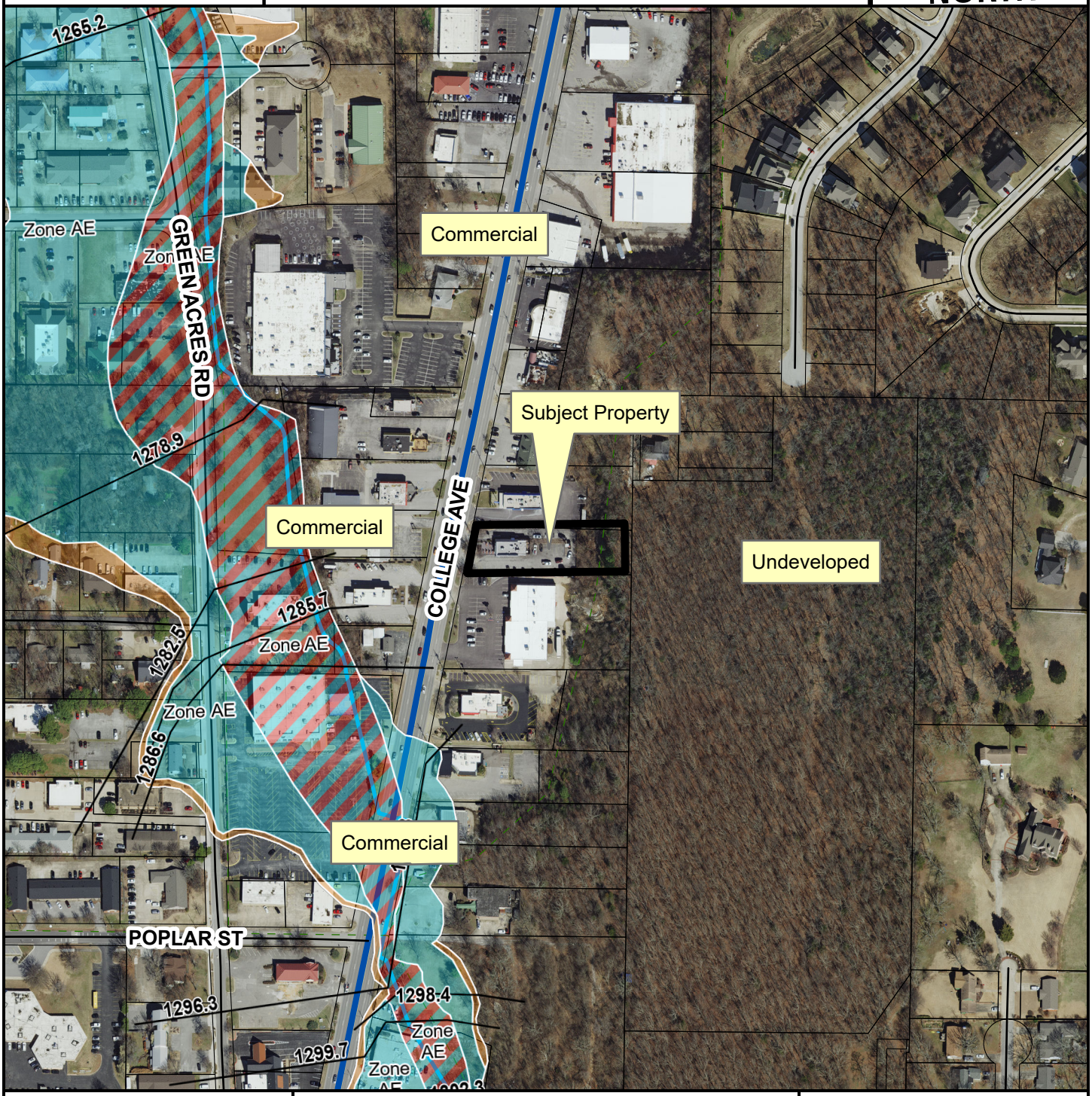
RSF-4
Residential-Office
C-2
Neighborhood Conservation

VAR-2023-0010

Current Land Use

2120 N. COLLEGE AVE

NORTH



Regional Link - High Activity
Residential Link
Trail (Proposed)
Planning Area
Fayetteville City Limits

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

100-Year Floodplain
Floodway

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Planner

MEETING DATE: March 27, 2023

SUBJECT: **CUP-2023-0021: Conditional Use Permit (3333 W. DINSMORE TRL/GARDEN DAY GETAWAY, 518):** Submitted by DALE NEWBERRY for property located at 3333 W. DINSMORE TRL. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 2.97 acres. The request is for Use Unit 4: Cultural and Recreational Facilities.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0021** with conditions as outlined by staff.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0021**, determining:*

- *In favor of compatibility with adjacent properties, and*
- *In favor of all other conditions as recommended by staff."*

BACKGROUND:
The subject property is located at the end of Dinsmore Trail, just west of Centennial Park in west Fayetteville. The property is zoned R-A, Residential-Agricultural, and is currently developed with a single-family dwelling and associated outbuildings. Slopes in excess of 15% are present on site and the property is located entirely within the Hillside-Hilltop Overlay District. Surrounding land uses and zoning are depicted in *Table 1.*

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Wireless Facility	R-A, Residential-Agricultural
South	Undeveloped	R-A, Residential-Agricultural
East	Centennial Park	RSF-4, Residential Single-Family, 4 Units per Acre
West	Undeveloped	R-A, Residential-Agricultural

City Plan 2040 Future Land Use Designation: **Residential Neighborhood**

Request: The applicant requests approval of a conditional use permit to operate a nature retreat for seniors, which would be classified as Use Unit 4: Cultural and Recreational Facilities. Use Unit 4 is a conditional use in the underlying R-A zoning district. The applicant has described the business as follows:

- *Portable tent/pavilion structure (500-710 sq. ft.)*
- *Number of employees: No employees, though maintenance may be required*
- *Hours of operation: 9:00 a.m. - 4:00 p.m.; Monday – Friday. Area will not be used when*

events are being held at Centennial Park
- *Parking: 1-2 vehicle spaces*
- *Solid waste: Existing containers serving the residence will be used and trash will be hauled to a city dump when required*

Public Comment: Staff received public comment from an adjacent property owner who expressed their opposition to this request. The individual had concerns about increased traffic and development along Dinsmore Trail, stating that the proposed use is not compatible with residential properties and may adversely impact property values.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0021** with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed use to be compatible with surrounding properties for the reasons outlined in this report;*

2. This conditional use permit is limited to the use as described in the applicant's request letter. This conditional use permit is non-transferrable to a different business or property owner. The following specifications apply:

   - Size of the business: *1 portable tent/pavilion structure (500-710 sq. ft.)*
   - Number of employees: None, excluding maintenance staff
   - Hours of operation: 8:00 a.m. – 5:00 p.m.; seven days per week
   - Parking: 1 per 4 occupants (Recreational Uses)

3. Approval of the conditional use permit does not grant development entitlement for site improvements. Improvements shall be considered for compliance with applicable zoning and development standards as required by the Unified Development Code;

4. Trash containers and structures shall be screened so that they are not visible from the public right-of-way or adjacent residential properties;

5. All site improvements shall comply with the Americans with Disabilities Act, as applicable, and;

6. Any future expansion or change in the use shall require Planning Commission approval.

PLANNING COMMISSION ACTION: Required YES

Date: March 27, 2023 ❒ **Tabled** ❒ **Approved** ❒ **Denied**

Motion:

Second:

Vote:

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.

2. Decide such questions as are involved in determining whether a conditional use should be granted; and,

3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or

4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

C. Procedures. A conditional use shall not be granted by the Planning Commission unless and until:

1. A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.

Finding: The applicant has submitted a written application requesting a conditional use permit for a recreational facility, which is classified as Use Unit 4. This use is permitted as a conditional use in the R-A, Residential-Agricultural zoning district.

2. The applicant shall pay a filing fee as required under Chapter 159 to cover the cost of expenses incurred in connection with processing such application.

Finding: The applicant has paid the required filing fee.

3. The Planning Commission shall make the following written findings before a conditional use shall be issued:

(a.) That it is empowered under the section of this chapter described in the application to grant the conditional use; and

Finding: The Planning Commission is empowered under Unified Development Code §161.03 to grant the requested conditional use permit.

(b.) That the granting of the conditional use will not adversely affect the public interest.

Finding: Staff finds that granting the requested conditional use permit is not likely to adversely affect the public interest. The property is buffered from nearby residences to the west by undeveloped land and steep topography, and Centennial Park borders the property to the east. Traffic impacts are likely to be minimal and noise and light are likely to be contained.

(c.) The Planning Commission shall certify:

(1.) Compliance with the specific rules governing individual conditional uses; and

Finding: **There are no specific rules governing the applicant's request.**

(2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:

(a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: **The applicant proposes one point of access to the property through an existing shared driveway that currently provides access to an existing home and cell tower at the end of Dinsmore Trail. A 30-foot-wide access easement is currently reserved on the property. The applicant has indicated that the City's Parks Department has expressed interest in providing a secondary point of access through Centennial Park to the east, though that access would require further coordination with the City's Parks Department. A memo from the City's Parks Department is attached which further describes their recommendations.**

(b.) Off-street parking and loading areas where required, with particular attention to ingress and egress, economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

Finding: **The applicant has indicated that one or two parking spaces will serve this use along the northern side of the property. The City's parking ordinance limits parking for recreational uses to one space per four occupants. Since a maximum of 18 guests are expected to be on site at a time, parking will likely be limited to a maximum of four spaces. The applicant has indicated that guests will be bussed to the property in groups.**

(c.) Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading,

Finding: **The applicant has indicated that trash will be disposed of in the existing residential carts serving the property or hauled once a week to a city dump, as required. Staff recommends a condition requiring that any trash carts on the property be screened from public view when not placed at the curb for residential pick-up.**

(d.) Utilities, with reference to locations, availability, and compatibility;

Finding: **The property has access to wter but does not currently have access to sewer.**

A two-inch water main is present along the property's frontage, though the area currently experiences a lack of water pressure and capacity. No utility connections are proposed with the requested land use. Upgrades to water or sewer service would be determined at the time of future development.

(e.) Screening and buffering with reference to type, dimensions, and character;

Finding: **Since the subject property is not directly adjacent to any residential uses, staff does not recommend any screening or buffering with the proposed use.**

(f.) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

Finding: **Any proposed signage will be subject to Unified Development Code Chapter 174, Signs, and all regulations therein.**

(g.) Required yards and other open space; and

Finding: **While the applicant's conceptual plan does not indicate setbacks, it does appear that all proposed structures would meet the relevant setbacks as defined by the R-A zoning district.**

(h.) General compatibility with adjacent properties and other property in the district.

Finding: **Staff finds the proposal to be compatible with adjacent properties. The center is intended to serve as a nature retreat for seniors with minimal traffic and noise. Only 6-18 guests are expected per day and no loud machinery or equipment will be used. Given the limited impact of the proposed use, staff finds that it is not likely to adversely affect adjacent properties or public infrastructure. Any expansion or change in the use would be subject to further review and approval by the Planning Commission.**

BUDGET/STAFF IMPACT:
None

ATTACHMENTS:

- Unified Development Code
  - §161.03 District R-A, Residential-Agricultural
- Parks Memo
- Request Letter
- Site Plan
- Elevations
- Public Comment
- One Mile Map
- Close-Up Map
- Current Land Use Map

161.03 District R-A, Residential-Agricultural

(A) *Purposes.* The regulations of the agricultural district are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; provide opportunity for affordable housing, increase scenic attractiveness; and conserve open space.

(B) *Uses*.

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 37	Manufactured homes
Unit 41	Accessory dwellings
Unit 43	Animal boarding and training
Unit 46	Short-term rentals

(2) *Conditional Uses*.

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 35	Outdoor Music Establishments
Unit 36	Wireless communications facilities
Unit 42	Clean technologies

(C) *Density.*

Units per acre	One-half (½)

(D) *Bulk and Area Regulations.*

Lot width minimum	200 feet
Lot Area Minimum:	
Residential:	2 acres
Nonresidential:	2 acres
Lot area per dwelling unit	2 acres

(E) *Setback Requirements.*

Front	Side	Rear
35 feet	20 feet	35 feet

(F) *Height Requirements.* There shall be no maximum height limits in the R-A District, provided, however, if a building exceeds the height of one (1) story, the portion of the building over one (1) story shall have an additional setback from any boundary line of an adjacent residential district. The amount of additional setback for the portion of the building over one (1) story shall be equal to the difference between the total height of that portion of the building and one (1) story.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(1); Ord. No. 1747, 6-29-70; Code 1991, §160.030; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5028, 6-19-07; Ord. No. 5128, 4-15-08; Ord. No. 5195, 11-6-08; Ord. No. 5238, 5-5-09; Ord. No. 5479, 2-7-12; Ord. No. 5945 , §3, 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6427 , §§1(Exh. C), 2, 4-20-21)

CITY OF
FAYETTEVILLE
ARKANSAS

STAFF MEMO

TO: Gretchen Harrison, Planner

FROM: Ted Jack, Park Planning Superintendent

CC: Jessie Masters, Development Review Manager

DATE: March 21, 2023

SUBJECT: Parks Comments on CUP-2023-0021 (Garden Day Getaway)

Parks is in favor of a place that supports positive recreation for seniors, particularly when the use is able to utilize one of our parks. Regarding the relationship of Centennial Park with CUP-2023-0021, Garden Day Getaway, Parks has discussed with Mr. Newberry the option to allow Garden Day Getaway users to access Centennial Park through a pedestrian gate on the property's fence line.

Mr. Newberry and Parks have also discussed allowing a limited use vehicular connection through this property for emergency vehicle access during special events at the Park, if needed. Free vehicular access between Centennial Park and Garden Day Getaway are not expected outside of occasional special events. Mr. Newberry may be allowed vehicular access to Centennial on a case-by-case basis if he were to host a special event of his own.

We welcome seniors and other users of Garden Day Getaway to access and enjoy Centennial Park.

A. No Existing buildings on the property that will be used.
No permanent buildings will be built.
Proposed structures will be ...first 6 months an enclosed style tent. If project is successful then a portable type A-frame, metal roof with screened in sides will be used. This structure will be used in case of rain showers, for shade and after the first year to have kitchenette and restroom facilities. The tent and/or A-frame structures will be approximately 500 to 700 square feet.

B. Structures will be approx. 9 to 12 feet tall and all outside material will be a dark green color

C. One or two spaces.

D. Hours used will be from 9 AM to 4PM on week days only. Area will not be used when events are being held in the Centennial Park.
No employees unless it might require maintenance person at some point.
Attendees will range from 6 to maybe 18 per day – 1 Senior Center with senior center members at a time. No or very limited weekends.

E. None

F. Very limited. Seniors talking and enjoying outdoor activities. No equipment or loud machinery

G. Very, very limited... summertime trees and blue sky only... Some public park views.

H. Limited trash to be placed in 3333 w. Dinsmore Trail dumpster or hauled once a week to city dump as required.

I. No traffic. Usage will be on a dead end road (W. Dinsmore Tr.) or possibly a city park drive.

J. Have talked to the limited number of neighbors and all like and are OK with this project.

Garden Day Getaway

501 C3

Objective

To provide Seniors and Veterans with a special place outdoors at no cost to relax, walk trails, play outdoor games, piddling in a garden, picking flowers & fruit or just simply setting, visiting, and doing nothing with others. Simply put, an outdoor area to get them out of the house, off the couch, and back to enjoying life and the things that they use to do.

Method

By using a few flat acres on a mountain top in Washington County we will provide a private outdoor setting, walking trails, and facilities for seniors and veterans.

Funding

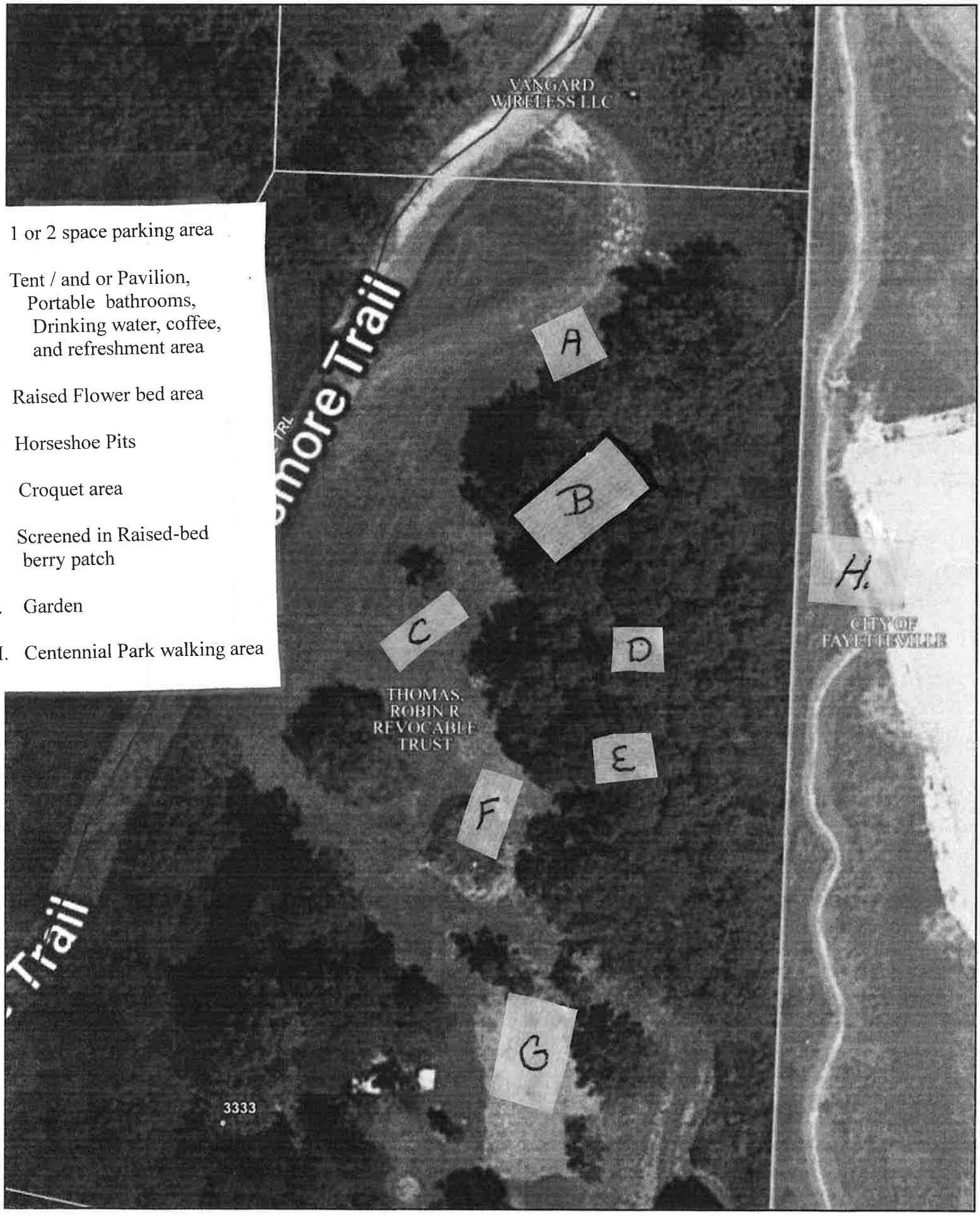
Through a few individuals, foundations, and programs the initial needed funds will be provided. Then we will use volunteer groups to do the initial design and development. Future daily and weekly maintenance will be done by the nonprofit staff and friends.

Promotional & Attendance Options

Many ideas, programs, and activities will be used at this Getaway Day location. Senior Centers and Veteran organizations in Washington County will share the program with their members and guest, then provide pre-appointment transportation.

Examble photos only

Contact Dale Newberry at 479 422 4030 or daleusa13@gmail.com



1 inch = 47 feet

Created By actDataScout on 2/13/2023 9:24:32 AM via DataScout OneMap

This map should be used for reference purposes only and should not be considered a legal document. While every effort has been made to ensure the accuracy of this product, the publisher accepts no responsibility for any errors or omissions nor for any loss or damage alleged to be suffered by anyone as a result of the publication of this map and the notations on it, or as a result of the use or misuse of the information provided herein.

Elevations: Tent/Pavilion Structure

22 x 32

FORREST GREEN TENT

20 x 30

Fayetteville City Planning Meeting 3/27/23

Issue: Conditional Use Permit for 3333 W. Dinsmore Trail, which is Zoned R-A Residential-Agricultural. This Business Activity Requested by Dale Newberry, as a renter of his primary home residence on 3 acres.

Response from Charles and Anna Futral, owners of downhill adjacent west property having approximately 410 feet of common border.
From: Charles and Anna Futral, adjacent Dinsmore Trail property owners.
Parcel#. 765-14640-002.

Mr. Newberry envisions hosting groups of seniors (up to 18 in number plus drivers, and volunteers), on the grounds of the rental house in which he resides. His Notification Form proposes "approximately 2 acres of the 3 acres on this property will be used for the **business**."

This location is not suitable for the following reasons:

INSUFFICIENT INFRASTRUCTURE to protect elderly at risk population

-WATER- limited water availability / pressure. Insufficient for gardens and increased septic tanks.

- **TOILETING**- This property will have porta potties

-CANVAS TENTS as permanent pavilions is unacceptable

-HYGIENE concerns- insufficient availability of facilities for hand hygiene in conjunction with toileting, as well as food serving and consumption of refreshments

-need to use DISPOSABLE CONTAINERS for food and beverages, creating further plastic, paper trash management demands
More dumpsters detracting from area

-**NARROW PUBLIC ROAD- One Lane** Wide at Certain Points. This affects all homes along Dinsmore Trail. Poor access for larger transport vehicles and toilet pump truck, overall increase in traffic, diminished safety for all users

INCOMPATIBILITY with FAYETTEVILLE CITY CODES

-ZONING. Currently RA Residential is current use and best for least impact on this area. This meets 2040 projections of best usage**.** It is not zoned for business

PAGE -2- Response from Charles and Anna Futral
Issue: Conditional Use Permit for 3333 W. Dinsmore Trail

-DRAINAGE IMPACT due to covered area (500-800') "first 6 months enclosed tent…then a portable A frame with metal roof" (WIND SAFETY?), plus additional parking, outdoor game courts.
-DOES NOT MEET ADA-Americans with Disabilities infrastructure and sanitation guidelines. To do so puts this property in conflict with Municipal codes conditional use directives in a residential setting.
-ADVERSE EFFECT on Nearby Residential Property Values
-Municipal Code states that it must "Protect adjoining properties including no adverse impact on adjoining property values.

-In CONFLICT with Fayetteville 2040 Plan for FUTURE GROWTH in Rupple Road vicinity, and West side of Millsap Mountain which is residential in nature, as is currently occurring
-LACKS 501C3 STATUS: Although this is a self-described business,

Mr. Newberry presently has no 501C3 standing authorizing non-profit incorporation, no Board of Directors, no defined guidelines, addressing provisions for safety, sanitation, liability, compliance with accessibility as outlined by the Americans with Disabilities Act-ADA, or meeting Health Department regulations regarding food and sanitation regulations.

CURRENTLY AVAILABLE ACCESSIBLE RESOURCES

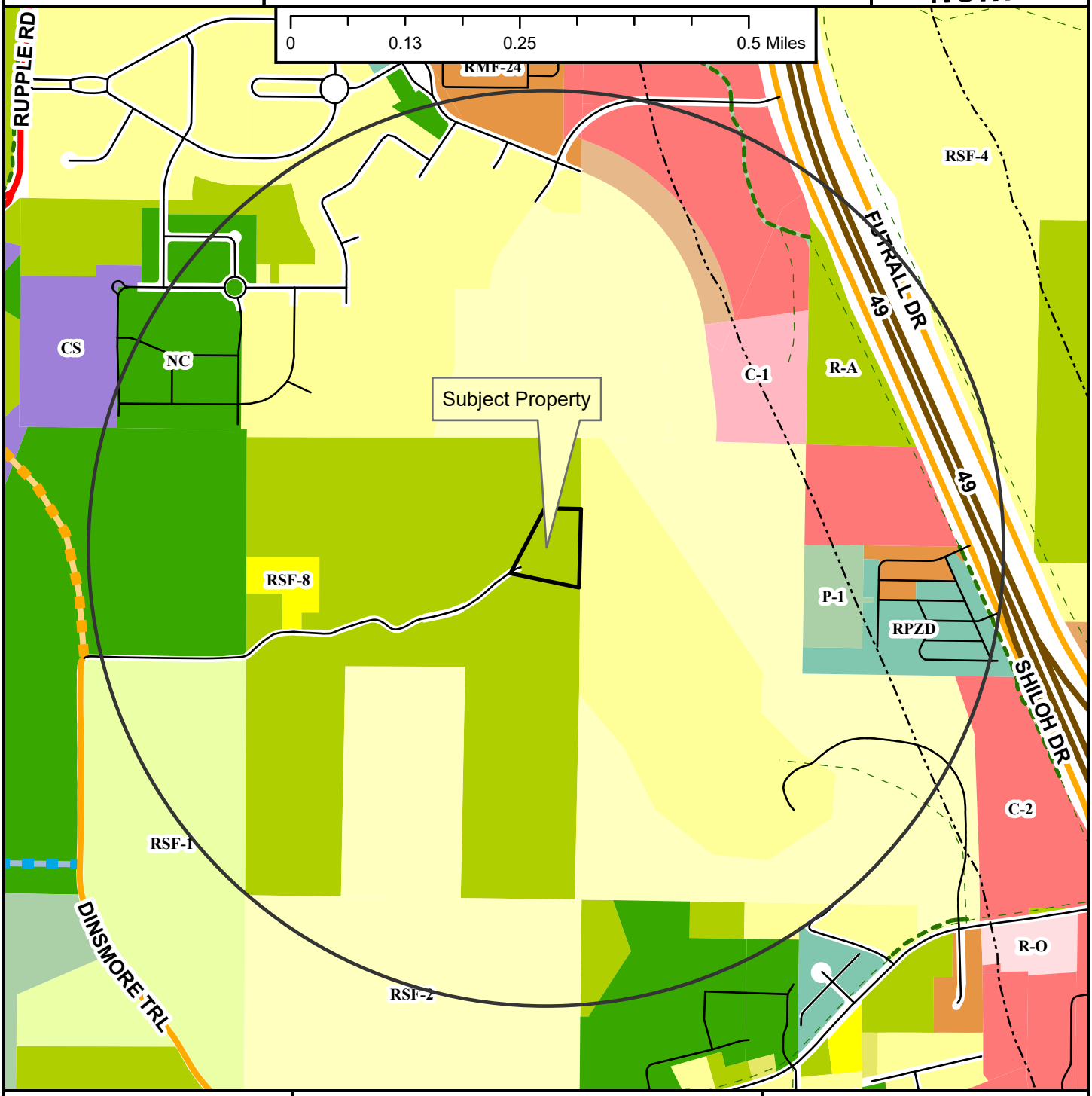
Mr. Newberry has a laudable goal of providing seniors and with access to the beauty and benefits of nature. His day trip service objectives can be better accomplished by leadership and coordination of outings to existing venues, rather than to his residence. There is an abundance of venues within the City of Fayetteville Parks and surrounding region which are already developed and staffed for programming and maintenance to better meet these needs. Fayetteville Parks are ADA compliant for a safe access for all. these are: Lake Fayetteville, Veterans Park with pavilion, ADA toilets, sanitation, wheel chair accessible walk ways to lake and woods. Walker Park Senior Center has assigned garden spots, parks neighborhood vegetable gardens with deer fence. The Botanical Gardens of the Ozarks welcomes volunteers and has stated that they would be happy to have groups of seniors wanting participate

CUP-2023-0021

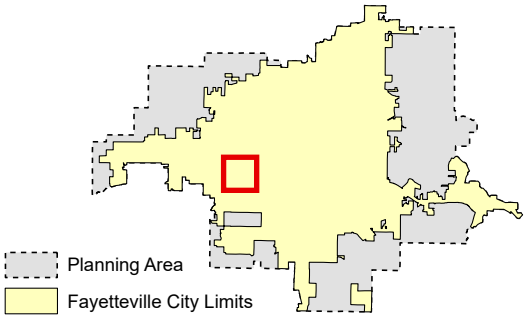
One Mile View

3333 W. DINSMORE TRL

NORTH



Regional Link
Neighborhood Link
Regional Link - High Activity
Freeway/Expressway
Unclassified
Alley
Residential Link



Zoning

RESIDENTIAL SINGLE-FAMILY
NS-G
RI-U
RI-12
NS-L
Residential-Agricultural
RSF-.5
RSF-1
RSF-2
RSF-4
RSF-7
RSF-8
RSF-18

RESIDENTIAL MULTI-FAMILY
RMF-6
RMF-12
RMF-18
RMF-24
RMF-40

INDUSTRIAL
I-1 Heavy Commercial and Light Industrial
I-2 General Industrial

EXTRACTION
E-1

COMMERCIAL
Residential-Office
C-1
C-2
C-3

FORM BASED DISTRICTS
Downtown Core
Urban Thoroughfare
Main Street Center
Downtown General
Community Services
Neighborhood Services
Neighborhood Conservation

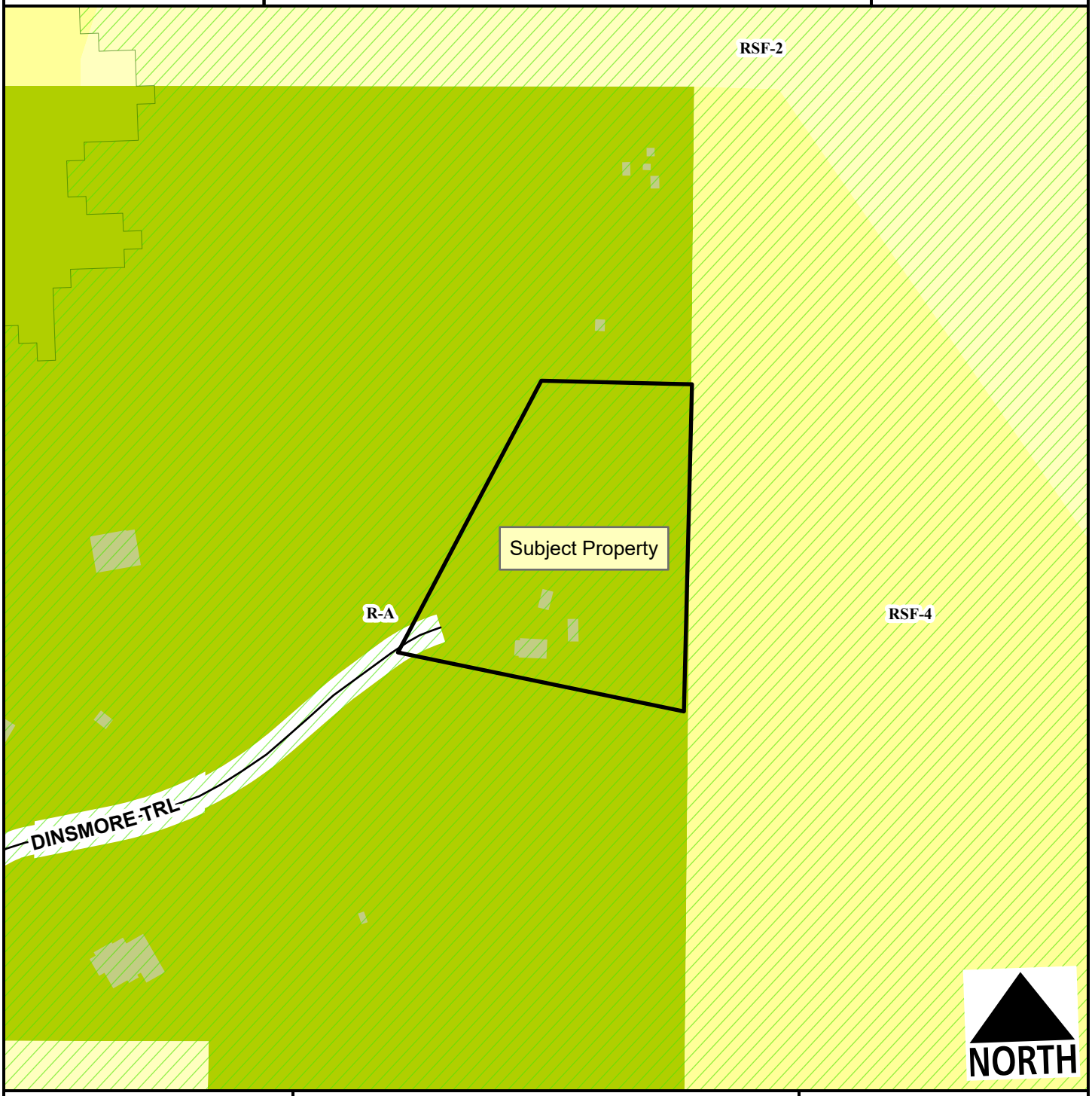
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

CUP-2023-0021

Close Up View

3333 W. DINSMORE TRL



Residential Link
Hillside-Hilltop Overlay District
Planning Area
Fayetteville City Limits

Feet
0 75 150 300 450 600
1:2,400

Residential-Agricultural
RSF-2
RSF-4

CUP-2023-0021

Current Land Use

3333 W. DINSMORE TRL

NORTH

Residential Link

Planning Area

Fayetteville City Limits

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

100-Year Floodplain

Floodway

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Planner

MEETING DATE: March 27, 2023

SUBJECT: **CUP-2023-0032: Conditional Use Permit (519 E. JOHNSON ST./MOHLER, 446):** Submitted by TJ MOHLER for property located at 519 E. JOHNSON ST. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE and contains approximately 0.19 acres. The request is for Use Unit 12a: Limited Business in RSF-4 zoning.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0032** with conditions as outlined by staff.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0032**, determining:*

- *In favor of compatibility with adjacent properties, and*
- *In favor of all other conditions as recommended by staff."*

BACKGROUND:
The subject property is located in central Fayetteville just southwest of the intersection of Mission Boulevard and Johnson Street. The property is zoned RSF-4, Residential Single-Family, 4 Units per Acre and contains approximately 0.19 acres. The property is developed with a 1,664-square-foot residential structure which is currently undergoing renovations which would divide the building into two separate areas connected by a double lock door. Surrounding land use and zoning are depicted in Table 1.

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Two-Family Residential	RSF-4, Residential Single-Family, 4 Unit per Acre
South	Single-Family Residential; Commercial	RSF-4, Residential Single-Family, 4 Unit per Acre
East	Single-Family Residential; Commercial	RSF-8, Residential Single-Family, 8 Unit per Acre
West	Single-Family Residential	RSF-4, Residential Single-Family, 4 Unit per Acre

Proposal: The applicant requests a conditional use permit to use approximately 400 square feet of the building on the property as a professional office for a real estate brokerage firm. The remainder of the building would be used as a long-term rental. Since the office would not be used by anyone residing on the premises, this business would be classified as Use Unit 12a: Limited Business, which is a conditional use in the RSF-4 zoning district. The applicant has described their business as follows:

- *Business will occur in approx. 400-square-foot space within a 1,664-square-foot building*
- *Parking: 1-2 vehicle spaces for the proposed commercial use*

- *Number of employees: One full-time employee*
- *Number of customers: Customers will only visit the office when paperwork cannot be signed electronically. Only a few people would be entering the office from time to time to complete paperwork.*
- *Hours of operation:*
    - *Will vary. Mostly 9:00 a.m. to 4:00 p.m.*
- *Outdoor lighting: No change from existing. New fixtures will be installed as needed.*
- *Noise: No change from existing*
- *Screening: No change from existing*
- *Trash: Residential carts*
- *Ingress/Egress: No change from existing. A new driveway is proposed to serve the adjacent residential use.*

City Plan 2040 Future Land Use Designation: **Residential Neighborhood**

Public Comment: Staff has not received any public comment regarding this request.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0032** with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of compatibility with adjacent properties.** *Staff finds the proposed location for a real estate brokerage office to be compatible given the scale of the proposed business and the proximity of it to other nonresidential uses.*

2. **This conditional use permit is limited to the real estate brokerage firm as outlined in the applicant's request letter. The following specifications apply:**
    - Size of the business: Approx. 400 square feet
    - Hours of operation:
        - Sunday - Thursday, 6:00 a.m. - 9:00 p.m.
        - Friday – Saturday, 6:00 a.m. – 11:00 p.m.
    - Parking: Maximum of one space per 200 sq. ft. of office space for the proposed commercial use
    - Number of employees: One maximum

3. A business license shall be obtained for the proposed business at this location prior to occupancy of the unit;

4. Any future expansion or change in the use shall require Planning Commission approval;

5. Parking areas be screened from adjacent residential properties by plantings, walls, architectural elements, and/or fencing;

6. Trash collection shall be coordinated with the City's Trash and Recycling Division;

7. Signs shall be limited to those permitted by UDC Chapter 174, Signs. Any proposed signage shall be reviewed for compliance with the underlying zoning district and shall be permitted by a separate sign permit prior to installation; and

8. Approval of this conditional use permit does not constitute approval of associated building plans or permits. The conditional use permit grants the applicant the right to submit a development proposal based on the conceptual layout herein. The applicant shall coordinate with the City's Building Safety and Engineering Divisions to ensure that all proposed building and site renovations, including improvements to existing or proposed driveways, are meeting applicable permitting requirements.

PLANNING COMMISSION ACTION:	**Required**	**YES**	
Date: March 27, 2023	**❒ Tabled**	**❒ Approved**	**❒ Denied**
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.

2. Decide such questions as are involved in determining whether a conditional use should be granted; and,

3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or

4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

C. Procedures. A conditional use shall not be granted by the Planning Commission unless and until:

1. A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.

Finding: The applicant has submitted a written application requesting conditional use approval for Use Unit 12a: Limited Business in RSF-4 zoning.

2. The applicant shall pay a filing fee as required under Chapter 159 to cover the cost of expenses incurred in connection with processing such application.

Finding: The applicant has paid the required filing fee.

3. The Planning Commission shall make the following written findings before a conditional use shall be issued:

(a.) That it is empowered under the section of this chapter described in the application to grant the conditional use;

Finding: **The Planning Commission is empowered under Unified Development Code §161.07 to grant the requested conditional use permit.**

(b.) That the granting of the conditional use will not adversely affect the public interest.

Finding: **Staff finds that granting the requested conditional use is not likely to adversely affect the public interest. The subject property is located along Mission Boulevard, which is classified as a Neighborhood Link, and is in close proximity to other nonresidential uses. While the subject property is in an RSF-4 zoning district and many neighboring properties are still residential in nature, the residential appearance of the structure as well as the low-intensity nature of the proposed use limit the potential for adverse impacts.**

(c.) The Planning Commission shall certify:

(1.) Compliance with the specific rules governing individual conditional uses; and

Finding: **There are specific rules governing limited businesses, as follows:**

§ 164.21. LIMITED BUSINESS.

D. **Conditions for Approval.** The uses listed may be allowed as a permitted use and shall meet the following conditions:

1. The proposed use shall not adversely affect local traffic conditions on the adjoining streets.

Finding: **The subject property has direct access to Mission Boulevard by way of an existing driveway on the east side of the property. The driveway is located approximately 75 feet away from the intersection of Mission Boulevard and Johnson Street, and 110 feet away from the parking lot to the south. Driveways along Neighborhood Link streets are required by code to be located a minimum of 100 feet away from adjacent driveways and intersections. No major traffic issues were identified nearby, and staff finds that none would be created by the proposed use given its limited impact. The applicant indicated in their submittal that a second driveway would be created along Johnson Street to serve the adjoining residential unit, and some alterations may be made to the existing driveway to better accommodate the proposed commercial use. Staff recommends a condition noting that any improvements to existing or proposed driveways will be subject to separate permitting.**

2. New structures located within a residential zoning district shall incorporate design elements similar to and compatible with those found within the neighborhood, including materials, roof pitch, scale, etc.

Finding: **No new structures are proposed. The applicant has indicated that the existing structure will be renovated, and its exterior will retain its residential character. Staff finds that approval of the requested conditional use will not compromise the residential appearance of the structure or the surrounding area.**

3. New parking areas or lots, utility equipment and trash enclosures shall be designed to have minimal visual impact to adjacent property owners and to the street. Screening of these elements shall be accomplished with plantings, walls, architectural elements, and/or fencing.

Finding: **The applicant has provided a conceptual site plan which indicates that one or two off-street parking spaces would be reserved for this business in an existing driveway. A second driveway is shown to be proposed on Johnson Street to serve the residential unit, though staff recommends a condition noting that any improvements to the existing or proposed parking areas will be subject to additional permitting. Staff also recommends that parking areas be screened from adjacent residential properties by plantings, walls, architectural elements, and/or fencing.**

4. Hours of operation shall be limited to Sunday through Thursday, 6:00 a.m. to 9:00 p.m., and Friday and Saturday, 6:00 a.m. to 11:00 p.m., unless otherwise further determined by the Planning Commission.

Finding: **The applicant has requested hours of operation between 9:00 AM and 4:00 PM. Staff recommends that the permitted hours of operation be extended to Sunday through Thursday, 6:00 a.m. to 9:00 p.m., and Friday and Saturday, 6:00 a.m. to 11:00 p.m., to align with the standards set by ordinance. Staff has listed these proposed hours in the recommended conditions of approval.**

4. All new or enlarged structures shall comply with the zoning requirements of the underlying district.

Finding: **No new or enlarged structures are proposed with the requested conditional use. Any additions or alterations would be subject to subsequent permitting.**

§163.02. AUTHORITY; CONDITIONS; PROCEDURES. (continued)

(2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:

(a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: **Vehicular ingress and egress to the property is provided by way of an existing driveway with direct access onto Mission Boulevard. The driveway is located approximately 75 feet away from the intersection of Mission Boulevard and Johnson Street, and 110 feet away from the parking lot to the south. Driveways along Neighborhood Links are required by code to be located a minimum of 100 feet away from adjacent driveways and intersections. No major traffic issues were identified nearby, and staff finds that none would be created by the proposed use given its limited impact. The applicant indicated in their submittal that a second driveway would be created along Johnson Street to serve the adjoining residential unit, and some alterations may be made to the existing driveway to better accommodate the proposed commercial use. Staff recommends a condition noting that any improvements to existing or proposed driveways will be subject to separate permitting. Sidewalk is currently present along the west side of Mission Boulevard to accommodate pedestrians. The City's Active Transportation Plan calls for a future trail along the west side of the street, though no city-initiated improvements are planned at this time. Given the limited impact of the proposed conditional use and the presence of existing sidewalk along the property's Mission Boulevard frontage, staff does recommend any street improvements as part of this request.**

(b.) Off-street parking and loading areas where required, with particular attention to ingress and egress, economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

Finding: **The applicant has provided a conceptual site plan which indicates that one or two off-street parking spaces would be reserved for this business in an existing driveway with access onto Mission Boulevard. A second driveway is proposed on Johnson Street to serve the adjoining residential unit, though staff recommends a condition noting that any improvements to the existing or proposed parking areas will be subject to additional permitting. Staff also recommends that parking areas be screened from adjacent residential properties by plantings, walls, architectural elements, and/or fencing.**

(c.) Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading,

Finding: **The applicant shall coordinate with the Recycling and Trash Collection Division for appropriate solid waste disposal. As proposed, the applicant will utilize a residential trash cart and recycling containers in keeping with the previous residential use of the property.**

(d.) Utilities, with reference to locations, availability, and compatibility;

Finding: **Utilities are currently available to the property, and the proposal to use a portion of the building as a limited business is not expected to impact the provision of utilities.**

(e.) Screening and buffering with reference to type, dimensions, and character;

Finding: **Staff recommends that parking areas be screened from adjacent residential properties by plantings, walls, architectural elements, and/or fencing, to align with UDC §164.21(D)(3).**

(f.) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

Finding: **Any proposed signage will be subject to Unified Development Code Chapter 174, Signs, and all regulations therein.**

(g.) Required yards and other open space; and

Finding: **The existing structure on the property does not appear to comply with the setback regulations of the underlying RSF-4 zoning district. Any additions or alterations to the building would be subject to subsequent permitting and may require amending this conditional use permit.**

(h.) General compatibility with adjacent properties and other property in the district.

Finding: **Staff finds the proposed use to be compatible with surrounding properties. The residential appearance of the building, its proximity to a major thoroughfare and nonresidential uses, the proposed hours of operation, and the provision for off-street parking should limit any adverse impacts on residences in the area.**

BUDGET/STAFF IMPACT:
None

ATTACHMENTS:
- Unified Development Code
  - §161.07 District RSF-4, Residential Single-Family – Four (4) Units Per Acre
  - §164.21 Limited Business (Use Conditions)
- Request Letter
- Site Plan
- Building Floor Plans
- Building Elevations
- One Mile Map
- Close-Up Map
- Current Land Use Map

161.07 District RSF-4, Residential Single-Family - Four (4) Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted Uses*.

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings
Unit 46	Short-term rentals

(2) *Conditional Uses*.

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 9	Two-family dwellings
Unit 12a	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities
Unit 44	Cluster Housing Development

(C) *Density.*

	Single-family dwellings	Two (2) family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and Area Regulations.*

	Single-family dwellings	Two (2) family dwellings
Lot minimum width	70 feet	80 feet
Lot area minimum	8,000 square feet	12,000 square feet
Land area per dwelling unit	8,000 square feet	6,000 square feet
Hillside Overlay District Lot minimum width	60 feet	70 feet
Hillside Overlay District Lot area minimum	8,000 square feet	12,000 square feet
Land area per dwelling unit	8,000 square feet	6,000 square feet

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations*.

Building Height Maximum	3 stories

(G) *Building Area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot. Accessory ground mounted solar energy systems shall not be considered buildings.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 4858, 4-18-06; Ord. No. 5028, 6-19-07; Ord. No. 5128, 4-15-08; Ord. No. 5224, 3-3-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5921 , §1, 11-1-16; Ord. No. 5945 , §8, 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6245 , §2, 10-15-19; Ord. No. 6427 , §§1(Exh. C), 2, 4-20-21)

164.21 - Limited Business

(A) *Purpose.* These regulations are intended to mitigate the potential adverse impacts associated with commercial uses adjacent to or within residential areas by allowing limited neighborhood commercial uses that are compatible in size, scale, massing and residential appearance with adjoining and surrounding residential uses. The following standards shall apply:

(1) Enhance and regulate the appearance of neighborhood commercial uses.

(2) Protect adjoining properties from the potential adverse impacts associated with commercial uses adjacent to residences such as traffic, noise, appearance, lighting, drainage, and effect on property values.

(3) Provide areas for off-street parking that will be appropriate in size, location and scale within residential areas.

(4) Provide commercial uses that are accessible for the convenience of individuals living in residential districts.

(5) Reduce the length and number of vehicle trips generated by residential development.

(B) *Applicability.* These standards shall apply to all conditional use requests for Use Unit 12, Limited Business, in any zoning district.

(C) *Similar Uses Allowed.* When a use is not specifically listed as a permitted use in Use Unit 12 (Limited Business), the use may be permitted if it is determined by the Zoning and Development Administrator that the use is similar to other uses listed. In determining "similarity," the Zoning and Development Administrator shall make all of the following findings:

(1) The proposed use meets the purpose of this section and the goals and policies of the Comprehensive Land Use Plan.

(2) The proposed use shall not adversely impact the public health, safety and general welfare of the neighboring residents;

(3) The proposed use shall be similar to the uses listed above considering use intensity and characteristics.

(D) *Conditions for Approval.* The uses listed may be allowed as a permitted use and shall meet the following conditions:

(1) The proposed use shall not adversely affect local traffic conditions on the adjoining streets.

(2) New structures located within a residential zoning district shall incorporate design elements similar to and compatible with those found within the neighborhood, including materials, roof pitch, scale, etc.

(3) New parking areas or lots, utility equipment and trash enclosures shall be designed to have minimal visual impact to adjacent property owners and to the street. Screening of these elements shall be accomplished with plantings, walls, architectural elements, and/or fencing.

(4) Hours of operation shall be limited to Sunday through Thursday, 6:00 a.m. to 9:00 p.m., and Friday and Saturday, 6:00 a.m. to 11:00 p.m., unless otherwise further determined by the Planning Commission.

(5) All new or enlarged structures shall comply with the zoning requirements of the underlying district.

(E) *Design Review.* The applicant shall submit the following information to the Planning Division for review, where applicable:

(1) A site plan drawn to scale showing location of parking, building footprint, and all other improvements.

(2) Color elevation drawings of all sides of the structure, indicating the type of materials to be used on the exterior of the building, and proposed sign.

(3) Landscape plan showing the location of all proposed landscaping, size and species of plant material.

(4) Abbreviated tree preservation plan.

(Ord. No. 5312, 4-20-10; Ord. No. 5375, 12-21-10)

Written Letter of Request: 519 E Johnson, Fayetteville AR 72701

To whom it may concern: Use Unit 12A: Limited Business

I, TJ Mohler, decided to separate from a local real estate firm 12/31/2022 to be able to open my own real estate brokerage firm and work under my own name, Mohler NWA Homes LLC. Per Arkansas NABOR requirements, to establish your own firm, you must have a separate business address from your primary home. We contemplated renting but decided to purchase instead. We found this property, 519 E Johnson St for sale and purchased it 11/2022. The house is old and needed a complete renovation to be able to be sound, safe and secure. The property sits on .34 lot and the dwelling is appx 1664 square footage with a detached garage. The 1664 sq foot home is way too large for a one-man office so we are deciding to make some passive income and renovate the home to where a family one rent out 85% of the property as a long term rental. We confirmed with the city prior to closing that this will be acceptable. They mentioned as long as it is a long-term rental and a small one man business, it shouldn't be an issue. The portion of the home (appx 400 sq feet) will be setup for I to work from. The 400 sqft will have a full bath, a foyer for seating and then a room for my desk and office. There will be a double lock door from the foyer of my office to connect to the kitchen of the rental. The other side of the house will have a fully new renovated 3 bedroom and 2 full bathrooms set aside for the rental. The house is already setup with two entry's, one for my office side and one for the tenants side. The Tenant will have their driveway off of Johnson, one car park and the current driveway will be mine, located off of Mission. The detached garage was torn down due to the unsafe structure. The hours of operation for myself will be an on needed basis, but mostly from 9am-4pm at max. As for outdoor lights, we will install proper outdoor light fixtures on the home and that should be plenty. Noise will not be an issue due to the fact it will just be I at the office. Tenant will be signing a year lease and the lease addresses the noise shall be kept to city and neighborhood standards. There may be at most, a couple or a family entering the small office side for paperwork from time to time but since mostly everything is done via e-sign, there will not be a need to accommodate clients unless on special circumstances. With this being an extreme limited business (one person business), and then a normal long term rental we are hoping to get an approval from the city.

Thank You,

TJ Mohler

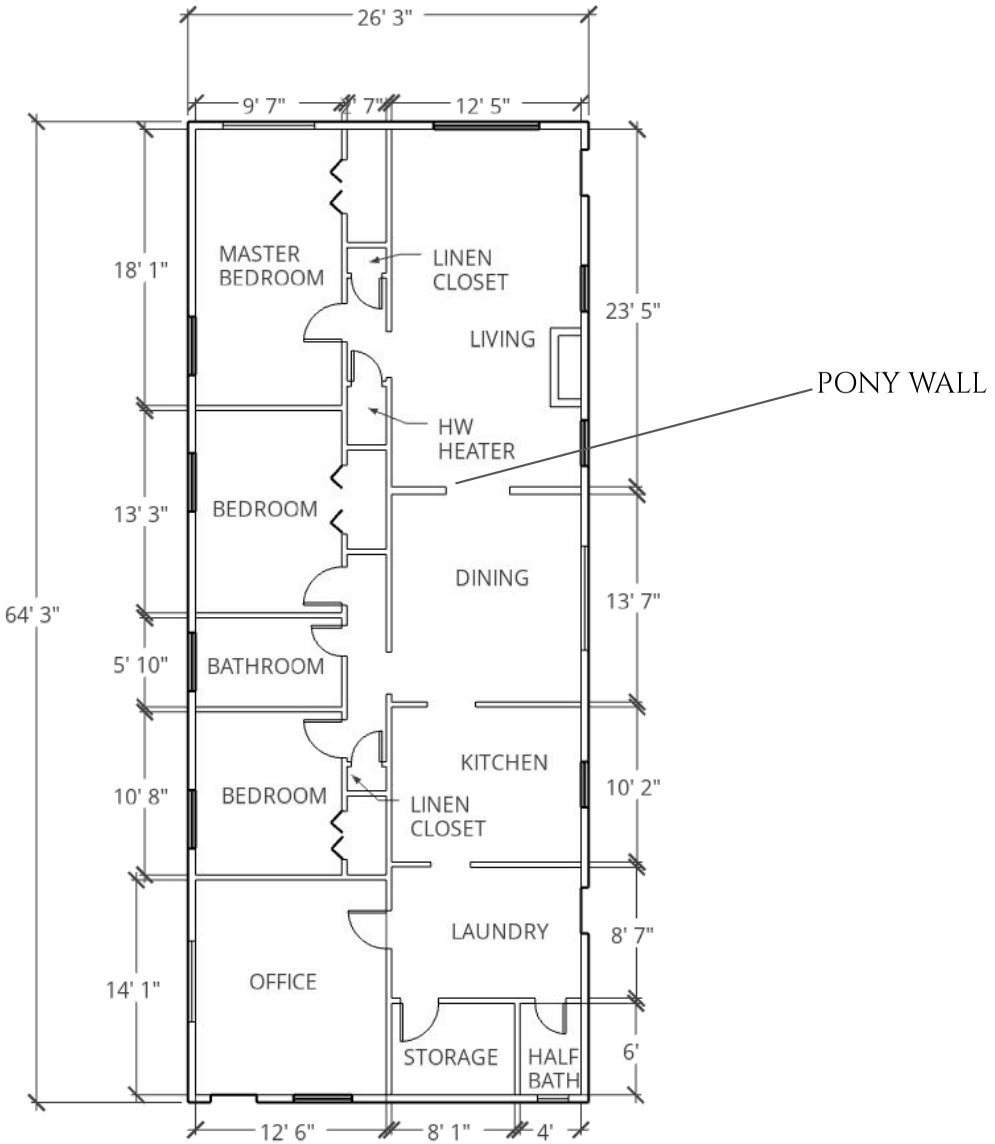
Owner of Mohler NWA Homes LLC

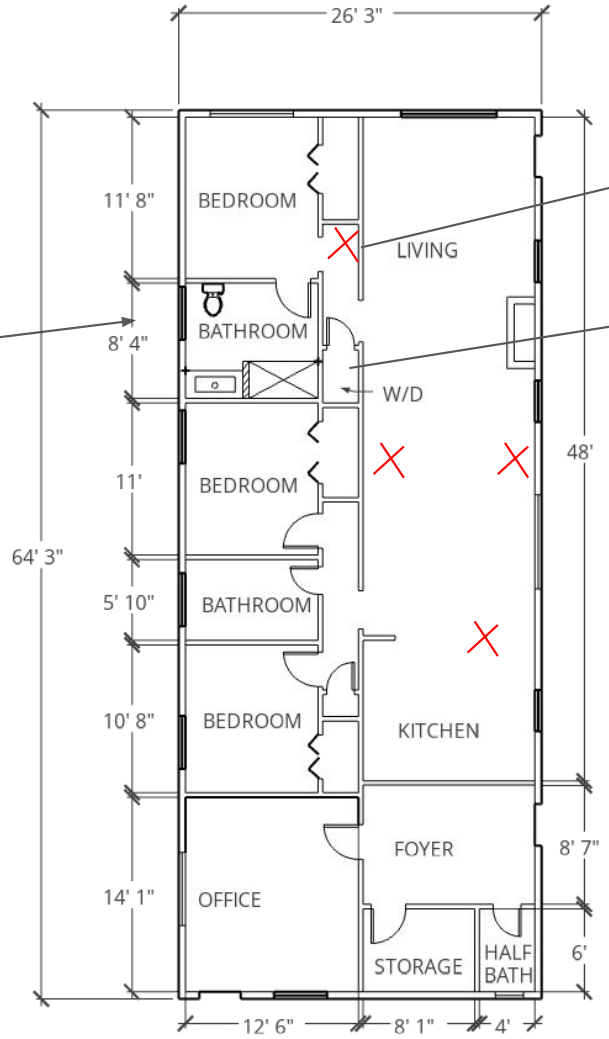
Site Plan

E Johnson
Mission
Home
3Bed/2 Bath
Rental
Drive way
Entry
walkway
Office
Entry
walkway
Existing
Business
Drive way
(1 car or 2 max)

ALLEY 534
E JOHNSON ST
N MISSION BLVD
CENTER DD
Keyboard shortcuts
Image may be subject to copyright
Terms of Use

CURRENT FLOOR PLAN





ADD A BATHROOM HERE

REMOVE LINEN CLOSET

PUT HOT WATER HEATER IN ATTIC–PUT STACK WASHER/DRYER HERE

REMOVE 3 INTERIOR WALLS AS SHOWN BY XS

PROPOSED FLOOR PLAN

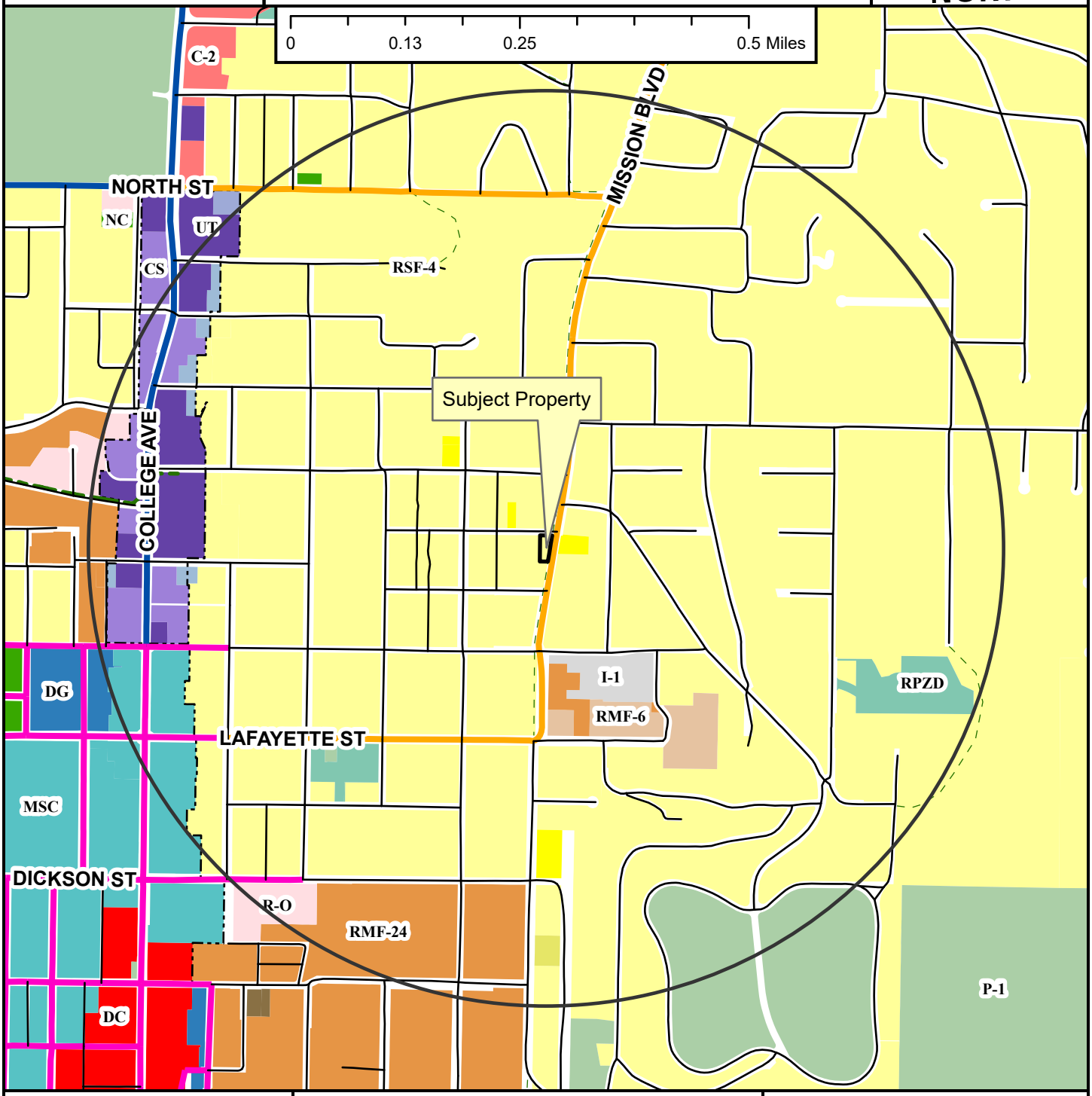
Building Elevations:

CUP-2023-0032

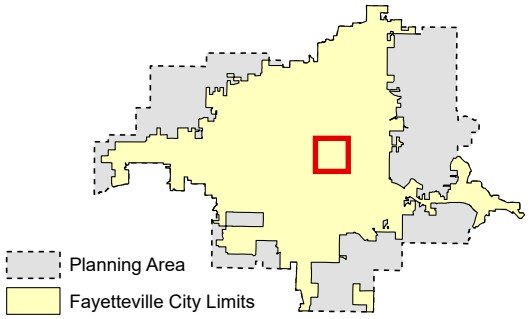
One Mile View

519 E. JOHNSON ST

NORTH



- Neighborhood Link
- Regional Link - High Activity
- Urban Center
- Unclassified
- Alley
- Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Fayetteville City Limits
- Planning Area



Zoning

RESIDENTIAL SINGLE-FAMILY
- NS-G
- RI-U
- RI-12
- NS-L
- Residential-Agricultural
- RSF-.5
- RSF-1
- RSF-2
- RSF-4
- RSF-7
- RSF-8
- RSF-18

RESIDENTIAL MULTI-FAMILY
- RMF-6
- RMF-12
- RMF-18
- RMF-24
- RMF-40

INDUSTRIAL
- I-1 Heavy Commercial and Light Industrial
- I-2 General Industrial

EXTRACTION
- E-1

COMMERCIAL
- Residential-Office
- C-1
- C-2
- C-3

FORM BASED DISTRICTS
- Downtown Core
- Urban Thoroughfare
- Main Street Center
- Downtown General
- Community Services
- Neighborhood Services
- Neighborhood Conservation

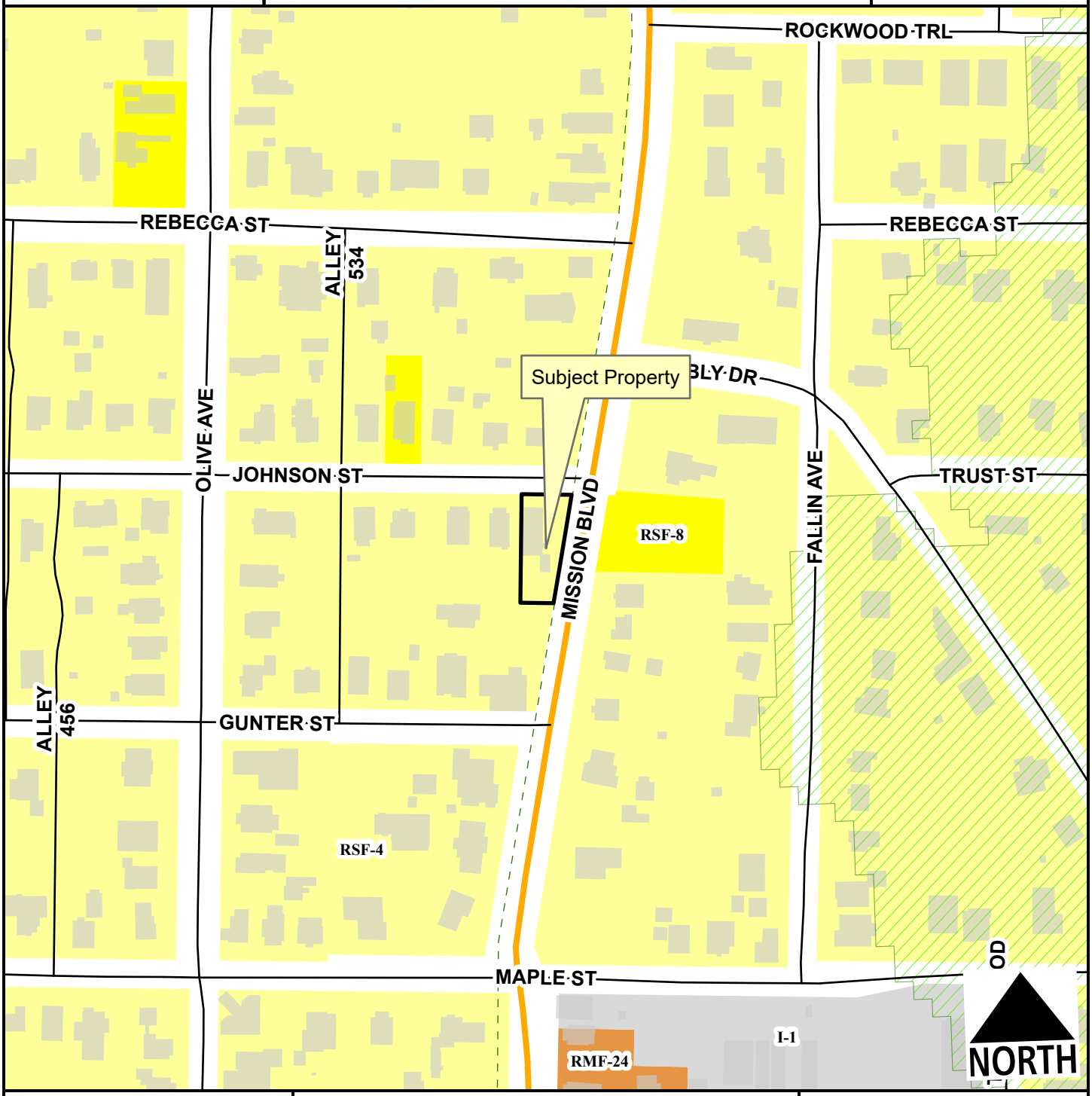
PLANNED ZONING DISTRICTS
- Commercial, Industrial, Residential

INSTITUTIONAL
- P-1

CUP-2023-0032

Close Up View

519 E. JOHNSON ST



- Neighborhood Link
- Alley
- Residential Link
- Hillside-Hilltop Overlay District
- Planning Area
- Fayetteville City Limits
- Trail (Proposed)

Feet

0 75 150 300 450 600

1:2,400

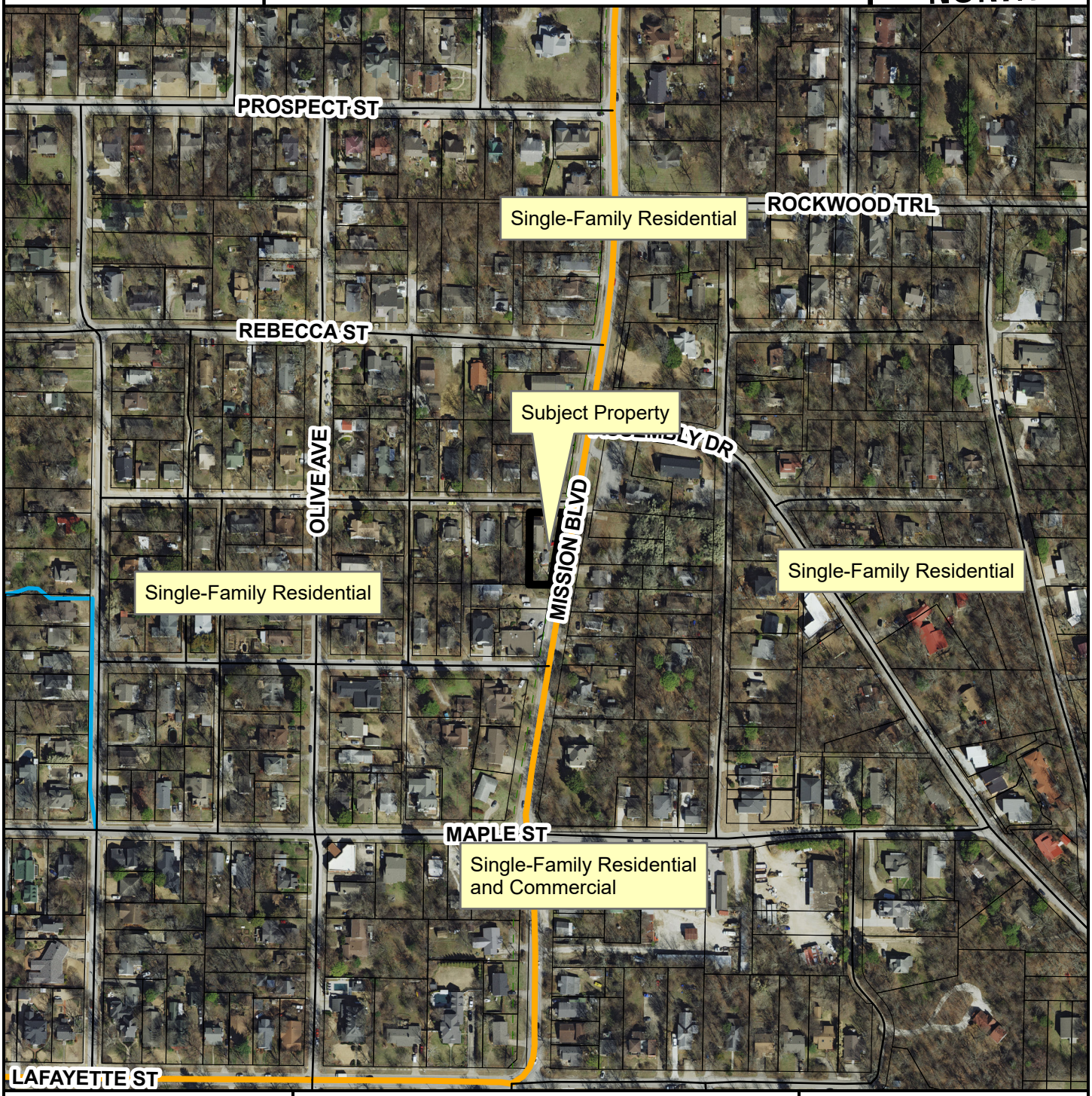
- RSF-4
- RSF-8
- RMF-24
- I-1 Heavy Commercial and Light Industrial

CUP-2023-0032

Current Land Use

519 E. JOHNSON ST

NORTH



- Neighborhood Link
- Alley
- Residential Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Planner

MEETING DATE: March 27, 2023

SUBJECT: **CUP-2023-0027: Conditional Use Permit (847 S. ROSE AVE./WERNER, 560):** Submitted by TODD AND TERESA WERNER for property located at 847 S. ROSE AVE. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE and contains approximately 0.20 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0027** with conditions as outlined by staff.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0027**, determining:*

- *In favor of compatibility with adjacent properties, and*
- *In favor of all other conditions as recommended by staff."*

BACKGROUND:
The subject property is located just south of the University of Arkansas main campus, northwest of the intersection of Rose Avenue and Stadium Drive. The property contains approximately 0.20 acres and is currently developed with a duplex that was built in 2015. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1.*

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Two-Family Dwellings	RMF-24, Residential Multi-Family, 24 Units per Acre
South	Two-Family Dwellings	RMF-24, Residential Multi-Family, 24 Units per Acre
East	Four-Family Dwellings	RMF-24, Residential Multi-Family, 24 Units per Acre
West	Tsa-La-Gi Bike Park	RMF-24, Residential Multi-Family, 24 Units per Acre

City Plan 2040 Future Land Use Designation: **City Neighborhood**

Proposal: The applicant requests conditional use permit approval to use one unit in the duplex on this property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term rentals are subject to density limitations, including a 2% citywide cap, and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

Public Comment: Staff has not received any public comment regarding this request.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0027** with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible with the neighborhood based on the findings in this report.*

2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in the development code.

3. Per UDC §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within one year of conditional use permit approval.

4. Per ordinance, the number of occupants is limited to a maximum of two people per bedroom, plus two, for the entire unit when the property is operated as a short-term rental.

5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.

6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

7. All trash receptacles shall be screened from view of the right-of-way.

8. All outdoor lighting shall meet requirements as outlined in UDC Chapter 176, Outdoor Lighting.

9. Any signage shall meet the requirements as outlined in UDC Chapter 174, Signs.

PLANNING COMMISSION ACTION: Required YES
Date: March 27, 2023 ❒ Tabled ❒ Approved ❒ Denied
Motion:
Second:
Vote:

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.

2. Decide such questions as are involved in determining whether a conditional use should be granted; and,

3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or

4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

C. Procedures. A conditional use shall not be granted by the Planning Commission unless and until:

1. A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.

Finding: The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental in RMF-24 zoning.

2. The applicant shall pay a filing fee as required under Chapter 159 to cover the cost of expenses incurred in connection with processing such application.

Finding: The applicant has paid the required filing fee.

3. The Planning Commission shall make the following written findings before a conditional use shall be issued:

(a.) That it is empowered under the section of this chapter described in the application to grant the conditional use; and

Finding: The Planning Commission is empowered under City Code §118.01(E)(2) to grant the requested conditional use permit.

(b.) That the granting of the conditional use will not adversely affect the public interest.

Finding: Staff finds that granting the requested conditional use is unlikely to adversely affect the public interest given the applicable business license requirements, including a required building safety inspection, and applicable density caps on Type 2 short-term rentals.

(c.) The Planning Commission shall certify:

(1.) Compliance with the specific rules governing individual conditional uses; and

Finding: There are specific rules governing short-term rentals, as follows:

§163.18. SHORT-TERM RENTALS.

A. **Residential Zoning Districts.** Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts: R-A, RSF-.5, RSF-1, RSF-2, RSF-4, RSF-7, RSF-8, RSF-18, RI-12, RI-U, RMF-6, RMF-12, RMF-18, RMF-24, RMF-40, and NC. Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district. Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

Finding: **The request is to operate a Type 2 short-term rental in RMF-24 zoning. Since RMF-24 is a residential zoning district, a conditional use permit is required.**

B. **Occupancy.** Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

Finding: **Occupancy is limited as described in UDC §163.18(B). Occupancy limitations are confirmed by the applicant during licensing. Since this house contains three bedrooms, occupancy will likely be limited to a maximum of eight guests.**

C. **Parking.** Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

Finding: **Parking is limited as described in UDC §163.18(C). Parking for duplexes is required to be provided at a rate of two spaces per unit. Based on the applicant's submittal, there appears to be space to park at least one vehicle in an attached garage and two additional vehicles in an adjacent driveway.**

D. Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

Finding: **The application letter suggests the property will comply with the City's regulations for a short-term rental. As a condition of approval, staff recommends a prohibition on special events.**

E. Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

Finding: **The application is for use of the property at 847 S. Rose Ave. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.**

F. Exceptions. Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

Finding: **Type 2 short-term rentals are subject to a city-wide density cap at 2% of total dwelling units, as determined by United States Census Bureau data. Recently released five-year American Community Survey data from 2021 lists total housing units in Fayetteville at 44,706, which puts the cap at 894 total Type 2 short-term rentals. To date, the City has issued 314 Type 2 short-term rental licenses that are subject to this cap. Hotel/motel uses are not permitted by right in RMF-24 zoning, so this short-term rental would contribute to the city-wide density cap. Since this unit is in a two-family dwelling that is owned by a single entity, it is also subject to a building density cap. If this permit is issued, the other unit on the property could not operate as a Type 2 short-term rental. No exceptions to the short-term rental standards are being requested with this conditional use permit.**

G. Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

Finding: **This short-term rental would be subject to all regulations in City Code §118.01 that apply to Type 2 short-term rentals in residential zoning districts. Applicable business licensing requirements will be reviewed by staff and confirmed by the applicant at the time of licensing.**

H. Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

1. Adequate parking infrastructure;

2. Adequate adjoining or nearby streets for on-street parking;

3. Frequency or concentration of nearby licensed Type 2 short-term rentals; and

4. Prior zoning or code violations.

Finding: **There appears to be adequate parking available to support the use of the property as a short-term rental based on the applicant's submittal. A total of three off-street parking spaces are available in an attached garage and driveway. On-street parking is not available along Rose Avenue, though it appears to be available nearby on Stadium Drive and Rochier Street. City business license records indicate that no other units within a quarter-mile radius have an active Type 2 short-term rental business license, and no prior zoning or code violations have been reported on this property.**

§163.02. AUTHORITY; CONDITIONS; PROCEDURES. (continued)

(2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:

(a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: **The subject property is rear loaded with vehicular ingress and egress through a shared private alley. The property also fronts onto Rose Avenue which is fully-improved with a five-foot sidewalk and has access to the Tsa-La-Gi Trail about a quarter-mile to the north. Staff finds that the proposal to use the property as a short-term rental will not adversely affect traffic flows considering the use of the property would be limited to a maximum of eight guests, which would not be out of character with the use of the property for residential purposes.**

(b.) Off-street parking and loading areas where required, with particular attention to ingress and egress, economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

Finding: **A total of three off-street parking spaces are available in an attached garage and adjacent driveway. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.**

(c.) Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading,

Finding: **The applicant proposes to utilize existing residential trash cart service. Staff recommends that the containers should be screened from public view when not at the curb for residential pick-up.**

(d.) Utilities, with reference to locations, availability, and compatibility;

Finding: **Utilities are currently available to the property and its use as a short-term rental is not anticipated to impact the provision of utilities.**

(e.) Screening and buffering with reference to type, dimensions, and character;

Finding: **Staff recommends that residential carts be screened so that they are not visible from the public right-of-way.**

(f.) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

Finding: **Any proposed signage will be subject to Unified Development Code Chapter 174, Signs, and all regulations therein.**

(g.) Required yards and other open space; and

Finding: **Based on the applicant's submittal, the structure is meeting relevant setbacks.**

(h.) General compatibility with adjacent properties and other property in the district.

Finding: **Staff finds the proposed use to be compatible with surrounding properties. The property is surrounded by residential uses, and short-term rentals are permitted by right in the RMF-24 zoning district. There appears to be adequate parking to accommodate the number of permitted guests, and staff does not anticipate any adverse traffic impacts with this request. The RMF-24 zoning district does not allow hotel/motel uses by right, so this short-term rental would contribute to the city-wide density cap.**

BUDGET/STAFF IMPACT:
None

ATTACHMENTS:

- Business Regulations
  - §118.01 Applicability
- Unified Development Code
  - §161.16 District RMF-24, Residential Multi-Family – Twenty-Four (24) Units Per Acre
  - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
- Applicant Request Letter
- Building Floor Plans
- Site Plan
- Building Elevations
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

118.01 Applicability

(E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.

(1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.

(2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.

(3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:

(a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
(b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
(c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.

(4) A separate business license shall be required for each dwelling unit used as a short-term rental.

(5) Any change in ownership requires a new or amended business license.

(6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.

(7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:

(a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
(b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
(c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
(d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
(e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
(f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
(g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.

(8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).

(11) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:

(a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
(b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
(c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.

(10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate compliance with

this section. For the purposes of these regulations, 'availability' means that the owner or agent is accessible by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.

(11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.

(12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.

(13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.

(14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.

(15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).

(16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 2% of all dwelling units in the Fayetteville city limits may be utilized as Type 2 rentals. Total dwelling units are determined from current United States Census Bureau and/or American Community Survey numbers, whichever number is higher. A conditional use permit may not permit:

(a) More Type 2 short-term rentals than what is allowed by the city-wide density cap. Type 2 short-term rentals in commercial and mixed-use zoning districts where hotel/motels are permitted by right shall not contribute to the city-wide density cap.
(b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
(c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
(d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.

(17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.

(18) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

(Ord. No. 6427 , §§1(Exh. A), 2, 4-20-21; Ord. No. 6505 , §1(Exh. A), 11-16-21; Ord. No. 6521 , §§1, 2, 1-18-22; Ord. No. 6537 , §1(Exh. A), 2-15-22)

161.16 District RMF-24, Residential Multi-Family - Twenty-Four (24) Units Per Acre

(A) *Purpose.* The RMF-24 Multi-family Residential District is designed to permit and encourage the developing of a variety of dwelling types in suitable environments in a variety of densities.

(B) *Uses.*

(1) Permitted Uses.

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 26	Multi-family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 11	Manufactured home park
Unit 12a	Limited business
Unit 24	Home occupations
Unit 25	Professional offices
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	24 or less

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Manufactured home park	100 feet
Lot within a Manufactured home park	50 feet
Single-family	35 feet
Two-family	35 feet
Three or more	70 feet
Professional offices	100 feet

(2) *Lot Area Minimum.*

Manufactured home park	3 acres
Lot within a mobile home park	4,200 square feet
Townhouses: Individual lot	2,000 square feet
Single-family	3,000 square feet
Two (2) family	4,000 square feet
Three (3) or more	7,000 square feet
Fraternity or Sorority	2 acres
Professional offices	1 acres

(3) *Land Area Per Dwelling Unit*.

Manufactured Home	3,000 square feet

(E) *Setback Requirements.*

Front	Side Other Uses	Side Single & Two (2) Family	Rear Other Uses	Rear Single Family
A build-to zone that is located between the front property line and a line 25 feet from the front property line.	8 feet	5 feet	20 feet	5 feet

(F) *Building Height Regulations.*

Building Height Maximum	2 stories/3 stories/5 stories*

* A building or a portion of a building that is located between 0 and 10 feet from the front property line or any master street plan right-of-way line shall have a maximum height of two (2) stories, between 10—20 feet from the master street plan right-of-way a maximum height of three (3) stories and buildings or portions of the building set back greater than 20 feet from the master street plan right-of-way shall have a maximum height of 5 stories.

If a building exceeds the height of two (2) stories, the portion of the building that exceeds two (2) stories shall have an additional setback from any side boundary line of an adjacent single family district. The amount of additional setback for the portion of the building over two (2) stories shall be equal to the difference between the total height of that portion of the building, and two (2) stories.

(G) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area. Accessory ground mounted solar energy systems shall not be considered buildings.

(H) Minimum Buildable Street Frontage. 50% of the lot width.

(Code 1965, App. A., Art. 5(III); Ord. No. 2320, 4-6-77; Ord. No. 2700, 2-2-81; Code 1991, §160.033; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5028, 6-19-07; Ord. No. 5079, 11-20-07; Ord. No. 5224, 3-3-09; Ord. No. 5262, 8-4-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5495, 4-17-12; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5800 , §1(Exh. A), 10-6-15; Ord. No. 5921 , §1, 11-1-16; Ord. No. 5945 , §§5, 8, 9, 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6245 , §2, 10-15-19; Ord. No. 6427 , §§1(Exh. C), 2, 4-20-21)

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

(A) *Residential Zoning Districts.* Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts:

1) R-A
2) RSF-.5
3) RSF-1
4) RSF-2
5) RSF-4
6) RSF-7
7) RSF-8
8) RSF-18
9) RI-12
10) RI-U
11) RMF-6
12) RMF-12
13) RMF-18
14) RMF-24
15) RMF-40
16) NC

Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district.

Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

(B) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

(C) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

(D) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

(E) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

(F) *Exceptions.* Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

(G) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

(H) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

1) Adequate parking infrastructure;

2) Adequate adjoining or nearby streets for on-street parking;

3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and

4) Prior zoning or code violations

(Ord. No. 6427 , §§1(Exh. E), 2, 4-20-21; Ord. No. 6505 , §2(Exh. B), 11-16-21; Ord. No. 6537 , §2(Exh. B), 2-15-22)

We are submitting a request for a permit for a short-term rental for 847 S. Rose Ave, 72701.

(a) The property is 1375 sq ft for side 847

(b) The building color is green

(c) There are (3) parking spaces: (1) Garage space, and (2) driveway spaces

(d) n/a we are residential

(e) There is lighting at front and back doors, also dusk to dawn lighting in front and back at garage doors. And motion detector lighting at garages.

(f) The area is normal residential noise. The unit should not add additional noise to area.

(g) This is a duplex, so it has a common wall between Unit 847 and Unit 845. We own the adjacent unit at 845 S. Rose Ave, 72701. The next building over is ~15'

(h) Trash service for property is at curb with city service. Similar to all townhomes on S. Rose. All units on street, leave trash receptacles at street.

(i) Access to front of building via sidewalk and access to rear of building via driveway/alley. Should not impact more than other residents on street.

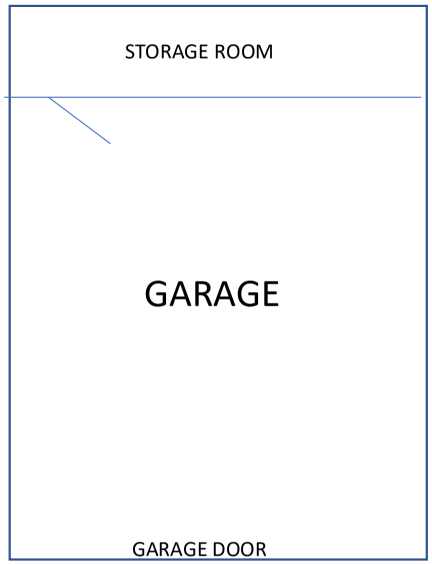
(j) Broad and consistent rental properties for students surround this property. Most are university students and rental lengths are 9-12 months.

LEGAL DESCRIPTION OF PROPERTY

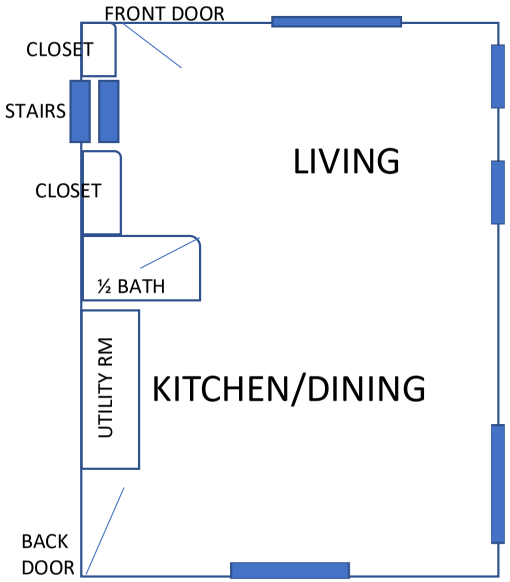
PT LOTS 9 & 10 BLK 4 .20 AC FURTHER DESCRIBED FROM 2014-1969 AS; PART OF LOTS 9 AND 10 OF BLOCK 4 OF ROCHIER HEIGHTS SUBDIVISION, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINTWHICH IS S02°55'43"W 75.48' FROM THE NORTHWEST CORNER OF SAID LOT 8, SAID POINT BEING A SET IRON PIN, AND RUNNING THENCE S86°48'26"E 141.26' TO A POINT ON THE WEST RIGHT-OF-WAY OF ROSE AVENUE, THENCE RUNNING ALONG SAID RIGHT-OF-WAY S02°58'13"W 62.00' TO A SET IRON PIN, THENCE LEAVING SAID RIGHT-OF WAY AND RUNNING N86°48'26"W 141.22' TO A SET IRON PIN, THENCE N02°55'43"E 62.00' TO THE POINT OF BEGINNING. CONTAINING 0.20 ACRES, MORE OR LESS.

FLOOR PLAN 847 S ROSE

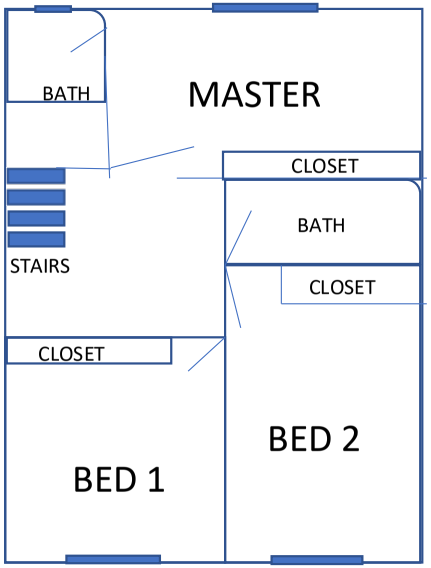
1ST FLOOR - GARAGE



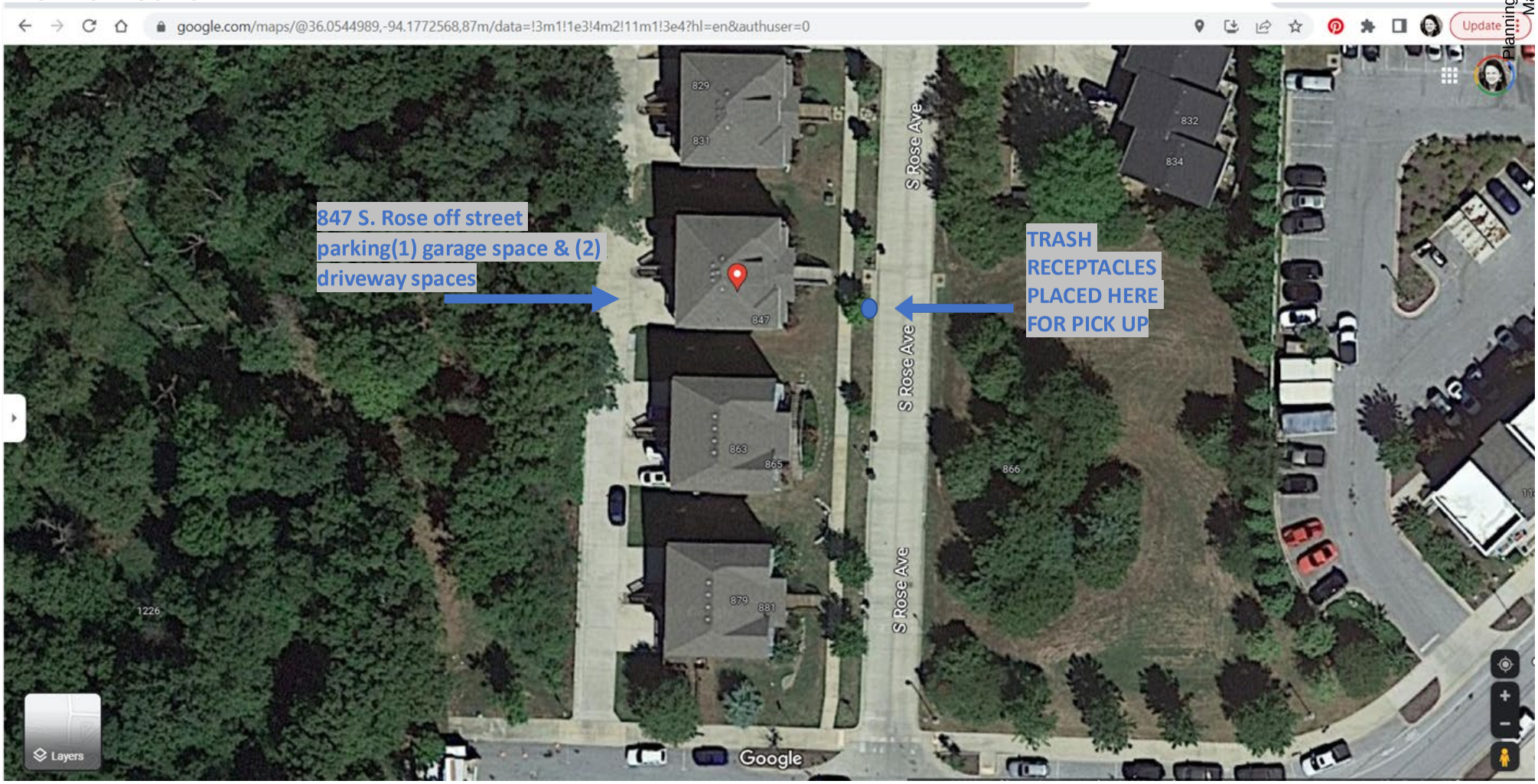
2ND FLOOR – LIVING/KITCHEN



3RD FLOOR – BEDROOM/BATHS



847 S. ROSE SITE PLAN



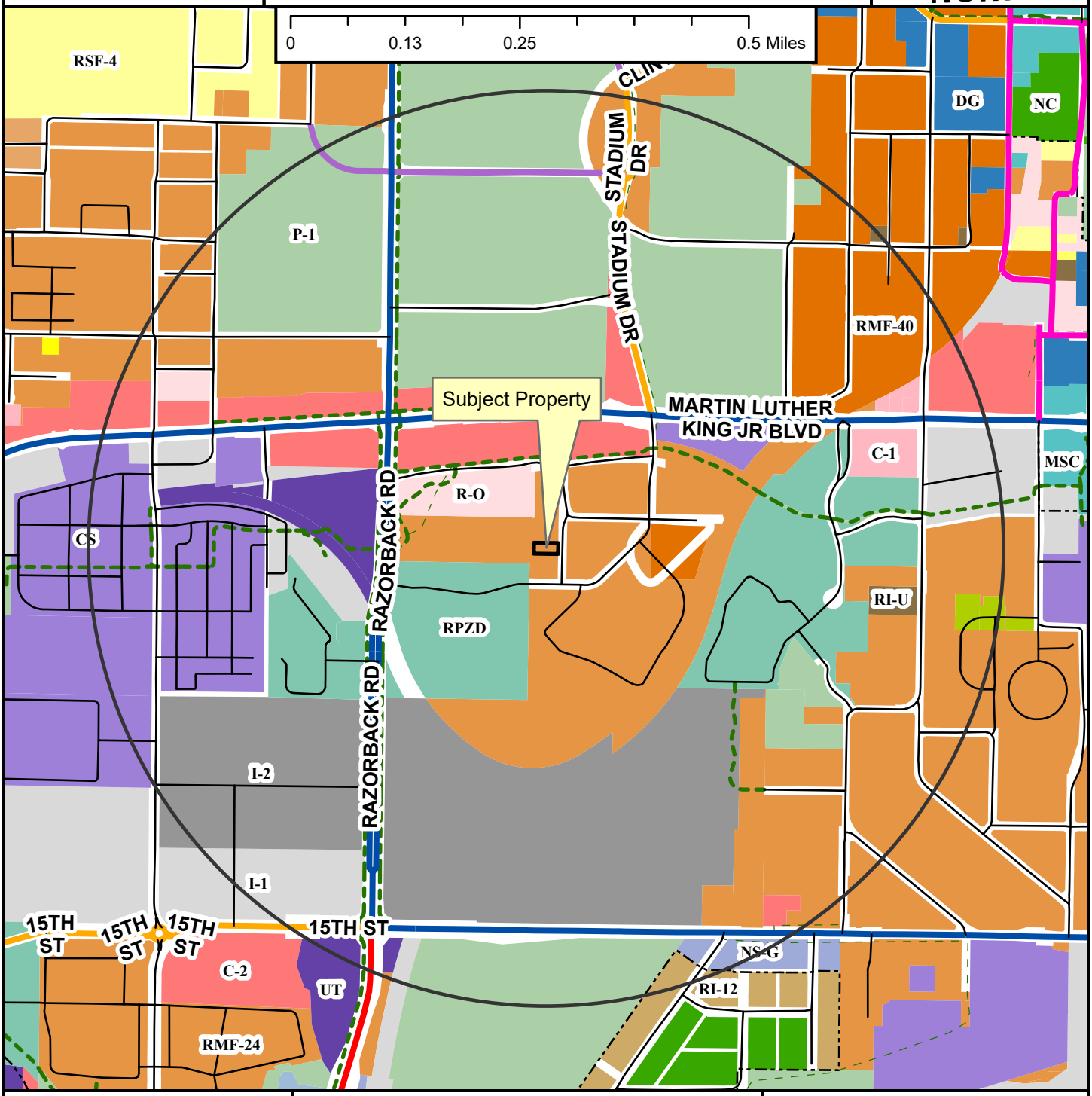
ELEVATION – 847 S ROSE AVE

CUP-2023-0027

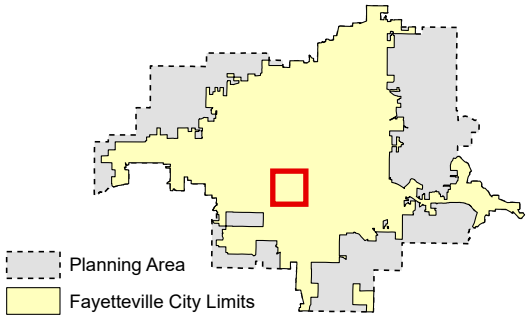
One Mile View

847 S. ROSE AVE

NORTH



Regional Link
Neighborhood Link
Institutional Master Plan
Regional Link - High Activity
Urban Center
Unclassified
Alley
Residential Link
Shared-Use Paved Trail
Trail (Proposed)
Design Overlay District
Fayetteville City Limits
Planning Area



Zoning

RESIDENTIAL SINGLE-FAMILY
NS-G
RI-U
RI-12
NS-L
Residential-Agricultural
RSF-.5
RSF-1
RSF-2
RSF-4
RSF-7
RSF-8
RSF-18

RESIDENTIAL MULTI-FAMILY
RMF-6
RMF-12
RMF-18
RMF-24
RMF-40

INDUSTRIAL
I-1 Heavy Commercial and Light Industrial
I-2 General Industrial

EXTRACTION
E-1

COMMERCIAL
Residential-Office
C-1
C-2
C-3

FORM BASED DISTRICTS
Downtown Core
Urban Thoroughfare
Main Street Center
Downtown General
Community Services
Neighborhood Services
Neighborhood Conservation

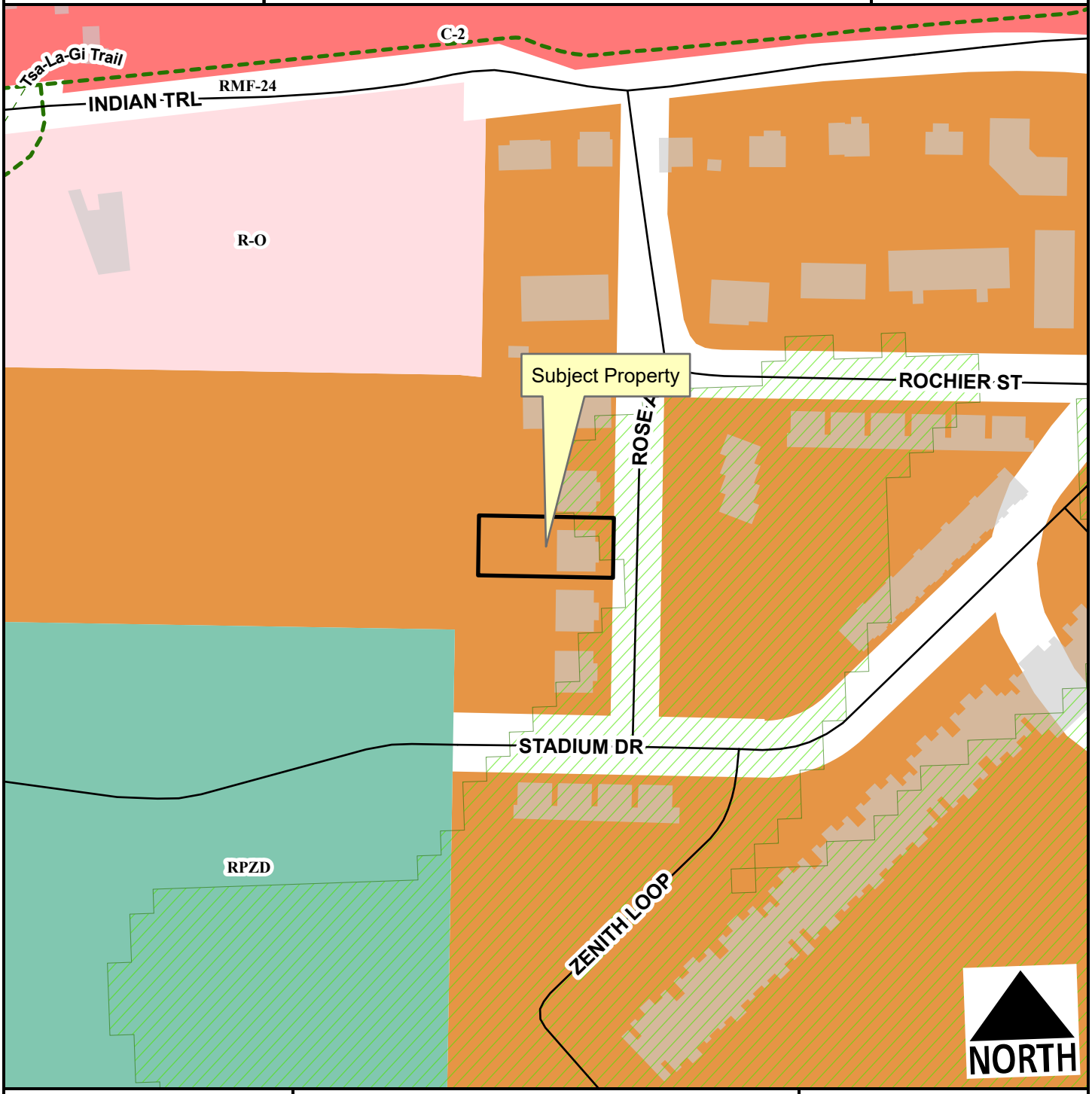
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

CUP-2023-0027

Close Up View

847 S. ROSE AVE



Residential Link
Hillside-Hilltop Overlay District
Planning Area
Fayetteville City Limits
Shared-Use Paved Trail
Trail (Proposed)

Feet

0 55 110 220 330 440

1:1,800

RMF-24
Residential-Office
C-2
Commercial, Industrial, Residential

CUP-2023-0027

Current Land Use

847 S. ROSE AVE

NORTH

- Neighborhood Link
- Regional Link - High Activity
- Unclassified
- Residential Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits

Feet

0 112.5 225 450 675 900

1:3,600

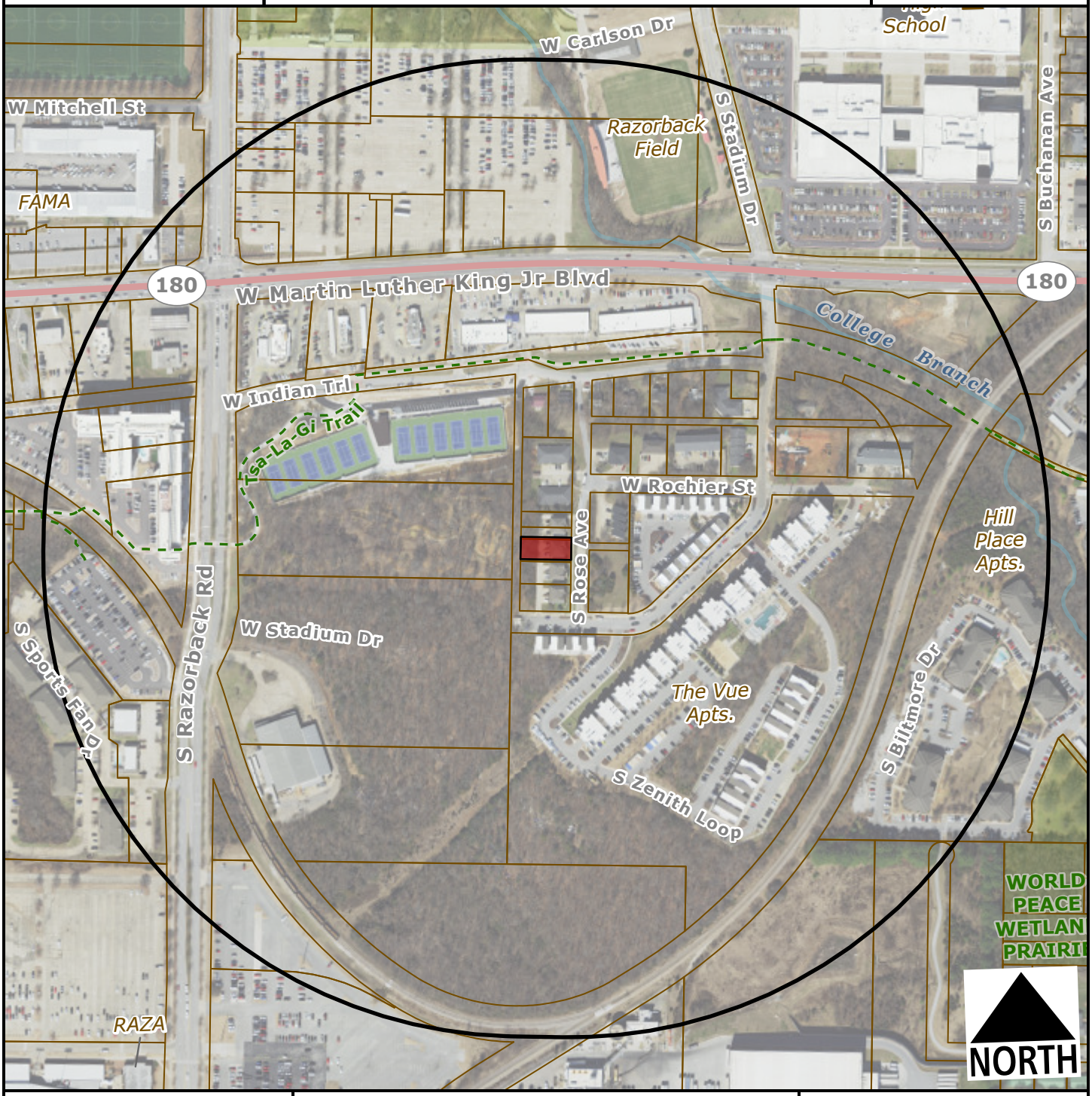
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0027

STRs Within 1/4 Mile

847 S. ROSE AVE



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Number of STR Licenses

Contributing to 2% density cap	0
NOT contributing to 2% density cap	0
Total	**0**

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Planner

MEETING DATE: March 27, 2023

SUBJECT: **CUP-2023-0028: Conditional Use Permit (1831 W. MITCHELL ST./GINGER, 520):** Submitted by NAN GINGER for property located at 1831 W. MITCHELL ST. The property is zoned RSF-8, RESIDENTIAL SINGLE-FAMILY, 8 UNITS PER ACRE and contains approximately 0.10 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0028** with conditions as outlined by staff.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0028**, determining:*

- *In favor of compatibility with adjacent properties, and*
- *In favor of all other conditions as recommended by staff."*

BACKGROUND:
The subject property is located just west of the University of Arkansas main campus on the south side of Mitchell Street. The property contains approximately 0.10 acres and is currently developed with a two-bedroom single-family dwelling that was built in 1939. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1.*

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Multi-Family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre
South	Single-Family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre
East	Multi-Family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre
West	Single-Family Residential	RSF-8, Residential Single-Family, 8 Units per Acre

City Plan 2040 Future Land Use Designation: **City Neighborhood**

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term rentals are subject to density limitations, including a 2% citywide cap, and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

Public Comment: Staff has not received any public comment regarding this request.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0028** with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible with the neighborhood based on the findings in this report.*

2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in the development code.

3. Per UDC §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within one year of conditional use permit approval.

4. Per ordinance, the number of occupants is limited to a maximum of two people per bedroom, plus two, for the entire unit when the property is operated as a short-term rental.

5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.

6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

7. All trash receptacles shall be screened from view of the right-of-way.

8. All outdoor lighting shall meet requirements as outlined in UDC Chapter 176, Outdoor Lighting.

9. Any signage shall meet the requirements as outlined in UDC Chapter 174, Signs.

PLANNING COMMISSION ACTION: Required YES
Date: March 27, 2023 ❒ Tabled ❒ Approved ❒ Denied
Motion:
Second:
Vote:

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.

2. Decide such questions as are involved in determining whether a conditional use should be granted; and,

3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or

4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

C. Procedures. A conditional use shall not be granted by the Planning Commission unless and until:

1. A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.

Finding: The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental in RSF-8 zoning.

2. The applicant shall pay a filing fee as required under Chapter 159 to cover the cost of expenses incurred in connection with processing such application.

Finding: The applicant has paid the required filing fee.

3. The Planning Commission shall make the following written findings before a conditional use shall be issued:

(a.) That it is empowered under the section of this chapter described in the application to grant the conditional use; and

Finding: The Planning Commission is empowered under City Code §118.01(E)(2) to grant the requested conditional use permit.

(b.) That the granting of the conditional use will not adversely affect the public interest.

Finding: Staff finds that granting the requested conditional use is unlikely to adversely affect the public interest given the applicable business license requirements, including a required building safety inspection, and applicable density caps on Type 2 short-term rentals.

(c.) The Planning Commission shall certify:

(1.) Compliance with the specific rules governing individual conditional uses; and

Finding: There are specific rules governing short-term rentals, as follows:

§163.18. SHORT-TERM RENTALS.

A. **Residential Zoning Districts.** Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts: R-A, RSF-.5, RSF-1, RSF-2, RSF-4, RSF-7, RSF-8, RSF-18, RI-12, RI-U, RMF-6, RMF-12, RMF-18, RMF-24, RMF-40, and NC. Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district. Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

Finding: **The request is to operate a Type 2 short-term rental in RSF-8 zoning. Since RSF-8 is a residential zoning district, a conditional use permit is required.**

B. **Occupancy.** Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

Finding: **Occupancy is limited as described in UDC §163.18(B). Occupancy limitations are confirmed by the applicant during licensing. Since this house contains two bedrooms, occupancy will likely be limited to a maximum of six guests.**

C. **Parking.** Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

Finding: **Parking is limited as described in UDC §163.18(C). Parking for single-family homes is required to be provided at a rate of two spaces per unit, and up to four vehicles are permitted to be parked outdoors on the property. Based on the applicant's submittal, there appears to be space to park at least one vehicle in an existing driveway.**

D. Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

Finding: **The application letter suggests the property will comply with the City's regulations for a short-term rental. As a condition of approval, staff recommends a prohibition on special events.**

E. Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

Finding: **The application is for use of the property at 1831 W. Mitchell St. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.**

F. **Exceptions.** Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

Finding: **Type 2 short-term rentals are subject to a city-wide density cap at 2% of total dwelling units, as determined by United States Census Bureau data. Recently released five-year American Community Survey data from 2021 lists total housing units in Fayetteville at 44,706, which puts the cap at 894 total Type 2 short-term rentals. To date, the City has issued 314 Type 2 short-term rental licenses that are subject to this cap. Hotel/motel uses are not permitted by right in RSF-8 zoning, so this short-term rental would contribute to the city-wide density cap. No exceptions to the short-term rental standards are being requested with this conditional use permit.**

G. Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

Finding: **This short-term rental would be subject to all regulations in City Code §118.01 that apply to Type 2 short-term rentals in residential zoning districts. Applicable business licensing requirements will be reviewed by staff and confirmed by the applicant at the time of licensing.**

H. Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

1. Adequate parking infrastructure;

2. Adequate adjoining or nearby streets for on-street parking;

3. Frequency or concentration of nearby licensed Type 2 short-term rentals; and

4. Prior zoning or code violations.

Finding: **There appears to be insufficient parking available on-site to support the use of the property as a short-term rental, though on-street parking is available nearby along Mitchell Street. Only one off-street parking space is available in an existing driveway. City business license records indicate that seven other units within a quarter-mile radius have active Type 2 short-term rental business licenses. No prior zoning or code violations have been reported on this property.**

§163.02. AUTHORITY; CONDITIONS; PROCEDURES. (continued)

(2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:

(a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: **Vehicular ingress and egress to the site is available through an existing driveway with access onto Mitchell Street. Staff finds that the proposal will not adversely affect traffic flows considering the use of the property would be limited to a maximum of six guests, which would not be out of character**

with the use of the property for residential purposes. On-street parking is available along Mitchell Street to accommodate additional vehicles.

(b.) Off-street parking and loading areas where required, with particular attention to ingress and egress, economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

Finding: **The applicant has indicated that there are two off-street parking spaces available in an existing paved driveway. However, staff finds that the driveway is only long enough to accommodate one vehicle since it only extends about 24 feet from the public right-of-way. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.**

(c.) Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading,

Finding: **The applicant proposes to utilize existing residential trash cart service. Staff recommends that the containers be screened from public view when not placed at the curb for residential pick-up.**

(d.) Utilities, with reference to locations, availability, and compatibility;

Finding: **Utilities are currently available to the property and its use as a short-term rental is not anticipated to impact the provision of utilities.**

(e.) Screening and buffering with reference to type, dimensions, and character;

Finding: **Staff recommends that residential carts be screened so that they are not visible from the public right-of-way.**

(f.) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

Finding: **Any proposed signage will be subject to Unified Development Code Chapter 174, Signs, and all regulations therein.**

(g.) Required yards and other open space; and

Finding: **Based on the applicant's submittal, the structure is meeting relevant setbacks.**

(h.) General compatibility with adjacent properties and other property in the district.

Finding: **Staff finds the proposed use to be compatible with surrounding properties. The property is surrounded by residential uses, and short-term rentals are permitted by right in the RSF-8 zoning district. There appears to be adequate parking to accommodate the number of permitted guests considering the availability of on-street parking, and staff does not anticipate any adverse traffic impacts with this request. The RSF-8 zoning district does not allow hotel/motel uses by right, so this short-term rental would contribute to the city-wide density cap.**

BUDGET/STAFF IMPACT:
None

ATTACHMENTS:

- Business Regulations
  - §118.01 Applicability
- Unified Development Code
  - §161.09 District RSF-8, Residential Single-Family – Eight (8) Units Per Acre
  - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
- Applicant Request Letter
- Building Floor Plan and Site Plan
- Building Elevations
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

118.01 Applicability

(E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.

(1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.

(2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.

(3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:

(a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
(b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
(c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.

(4) A separate business license shall be required for each dwelling unit used as a short-term rental.

(5) Any change in ownership requires a new or amended business license.

(6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.

(7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:

(a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
(b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
(c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
(d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
(e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
(f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
(g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.

(8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).

(11) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:

(a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
(b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
(c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.

(10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate compliance with

this section. For the purposes of these regulations, 'availability' means that the owner or agent is accessible by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.

(11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.

(12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.

(13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.

(14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.

(15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).

(16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 2% of all dwelling units in the Fayetteville city limits may be utilized as Type 2 rentals. Total dwelling units are determined from current United States Census Bureau and/or American Community Survey numbers, whichever number is higher. A conditional use permit may not permit:

(a) More Type 2 short-term rentals than what is allowed by the city-wide density cap. Type 2 short-term rentals in commercial and mixed-use zoning districts where hotel/motels are permitted by right shall not contribute to the city-wide density cap.
(b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
(c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
(d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.

(17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.

(18) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

(Ord. No. 6427 , §§1(Exh. A), 2, 4-20-21; Ord. No. 6505 , §1(Exh. A), 11-16-21; Ord. No. 6521 , §§1, 2, 1-18-22; Ord. No. 6537 , §1(Exh. A), 2-15-22)

161.09 District RSF-8, Residential Single-Family - Eight (8) Units Per Acre

(A) *Purpose.* The RSF-8 Residential District is designed to bring historic platted development into conformity and to allow for the development of new single family residential areas with similar lot size, density, and land use as the historical neighborhoods in the downtown area.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 9	Two-family dwellings
Unit 12a	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities
Unit 44	Cluster Housing Development

(C) *Density.*

	By Right
Single-family dwelling units per acre	8 or less

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Single-family	50 feet
Two (2) family	50 feet
Townhouse, no more than two (2) attached	25 feet

(2) *Lot Area Minimum.*

Single-family	5,000 square feet
Two-family	5,000 square feet

(3) *Land Area Per Dwelling Unit*.

Single-family	5,000 square feet
Two-family	5,000 square feet
Townhouse, no more than two (2) attached	2,500 square feet

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	5 feet

(F) *Height Regulations.*

Building Height Maximum	3 stories

(G) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area, except when a detached garage exists or is proposed; then the area occupied by all buildings shall not exceed 60% of the total lot area. Accessory ground mounted solar energy systems shall not be considered buildings.

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

(A) *Residential Zoning Districts.* Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts:

1) R-A
2) RSF-.5
3) RSF-1
4) RSF-2
5) RSF-4
6) RSF-7
7) RSF-8
8) RSF-18
9) RI-12
10) RI-U
11) RMF-6
12) RMF-12
13) RMF-18
14) RMF-24
15) RMF-40
16) NC

Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district.

Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

(B) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

(C) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

(D) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

(E) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

(F) *Exceptions.* Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

(G) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

(H) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

1) Adequate parking infrastructure;

2) Adequate adjoining or nearby streets for on-street parking;

3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and

4) Prior zoning or code violations

(Ord. No. 6427 , §§1(Exh. E), 2, 4-20-21; Ord. No. 6505 , §2(Exh. B), 11-16-21; Ord. No. 6537 , §2(Exh. B), 2-15-22)

REQUEST LETTER RE:

1831 W Mitchell St, Conditional Use Type 2 Rental

1a) 874 q Ft. No expansion of existing structure.

1b) Pictures in PDF Attached.

1c) 2 off-street Parking Spaces

1d) N/A

1e) Front and rear porch lighting, city street lighting

1f) Residential Neighborhood, no noise mitigation expected.

1g) See attached pictures: Fence, landscaping consistent with residential and neighborhood use.

1h) See attached site plan, LOCATED IN DRIVEWAY: city of Fayetteville residential refuse collection

1i) Residential Street and up to 2 car parking in driveway.

1j) Residential Use Only, per Short Term Rental Guidelines of the City of Fayetteville.

2) LEGAL DESCRIPTION

Lot 1-B of the Lot Split Survey of Blew & Associates, Surveyors, dated May 1, 2018, and recorded May 16, 2018, as Instrument Number 2018-00013869 in the office of the Circuit Clerk and Recorder of Washington County, Arkansas and being the East Half of Lot 1, Block 1, of Valley Vista Subdivision to the City of Fayetteville, Arkansas, as shown on Plat of Record in Plat Book 1, at page 153, plat records of Washington County, Arkansas. Subject to all easements of record or fact.

3) 4) 5) 6) SEE ATTACHEMENTS

FENCE
LIGHT
REFUSE
UTILITY
BED 2
FENCE
KITCHEN
FENCE
DINING
BED 1
LIVING
PORCH
LIGHT
PARKING
1831 W MITCHELL ST
INTERIOR - EXTERIOR
MITCHELL

Subject: 1831 West Mitchell

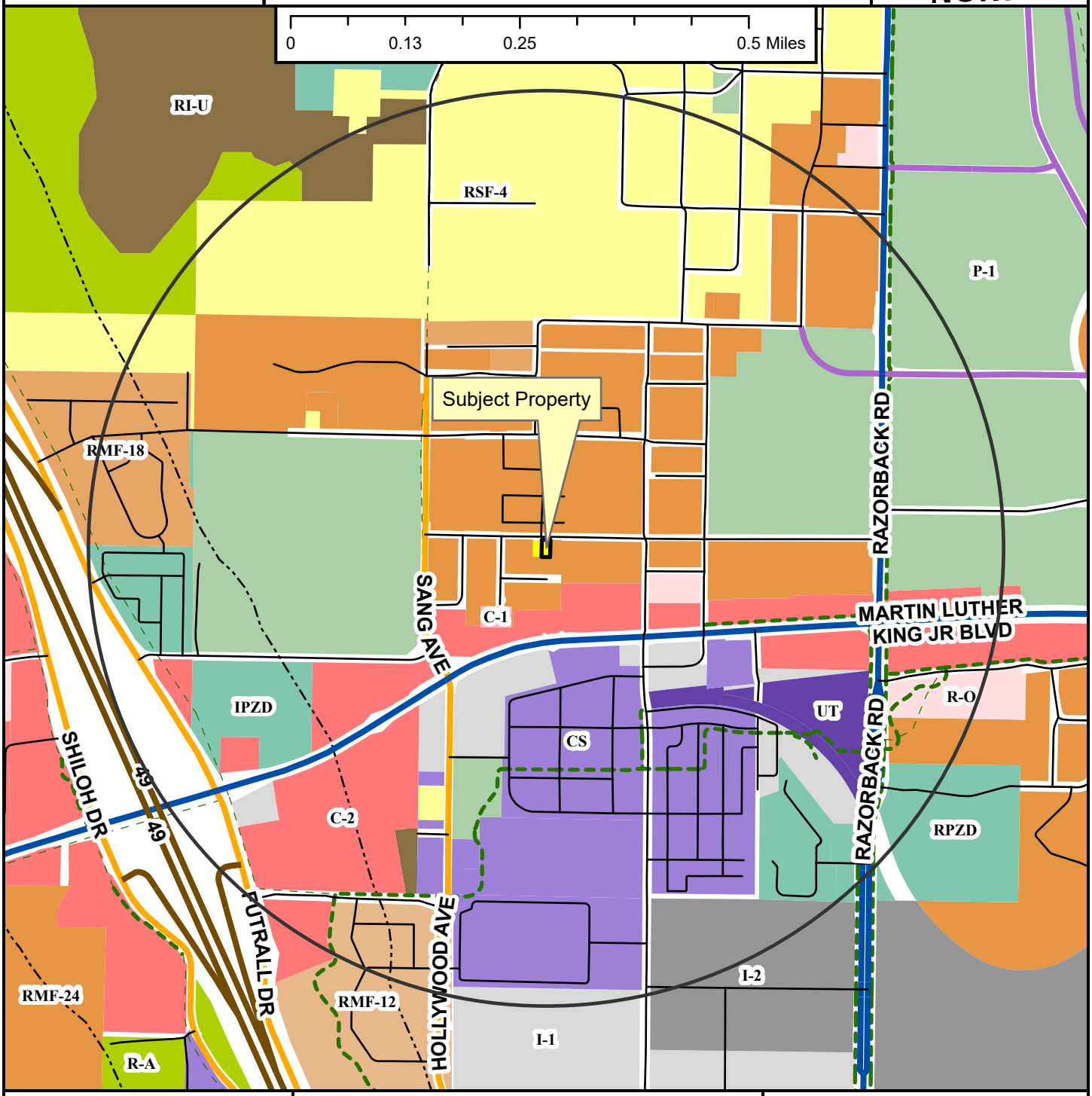
Michael Moyer
C 312.952.1194

CUP-2023-0028

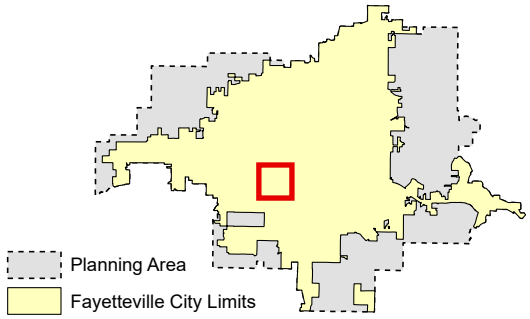
One Mile View

1831 W. MITCHELL ST

NORTH



- Neighborhood Link
- Institutional Master Plan
- Regional Link - High Activity
- Freeway/Expressway
- Unclassified
- Alley
- Residential Link
- Planned Neighborhood Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Fayetteville City Limits
- Planning Area



Zoning

RESIDENTIAL SINGLE-FAMILY
- NS-G
- RI-U
- RI-12
- NS-L
- Residential-Agricultural
- RSF-.5
- RSF-1
- RSF-2
- RSF-4
- RSF-7
- RSF-8
- RSF-18

RESIDENTIAL MULTI-FAMILY
- RMF-6
- RMF-12
- RMF-18
- RMF-24
- RMF-40

INDUSTRIAL
- I-1 Heavy Commercial and Light Industrial
- I-2 General Industrial

EXTRACTION
- E-1

COMMERCIAL
- Residential-Office
- C-1
- C-2
- C-3

FORM BASED DISTRICTS
- Downtown Core
- Urban Thoroughfare
- Main Street Center
- Downtown General
- Community Services
- Neighborhood Services
- Neighborhood Conservation

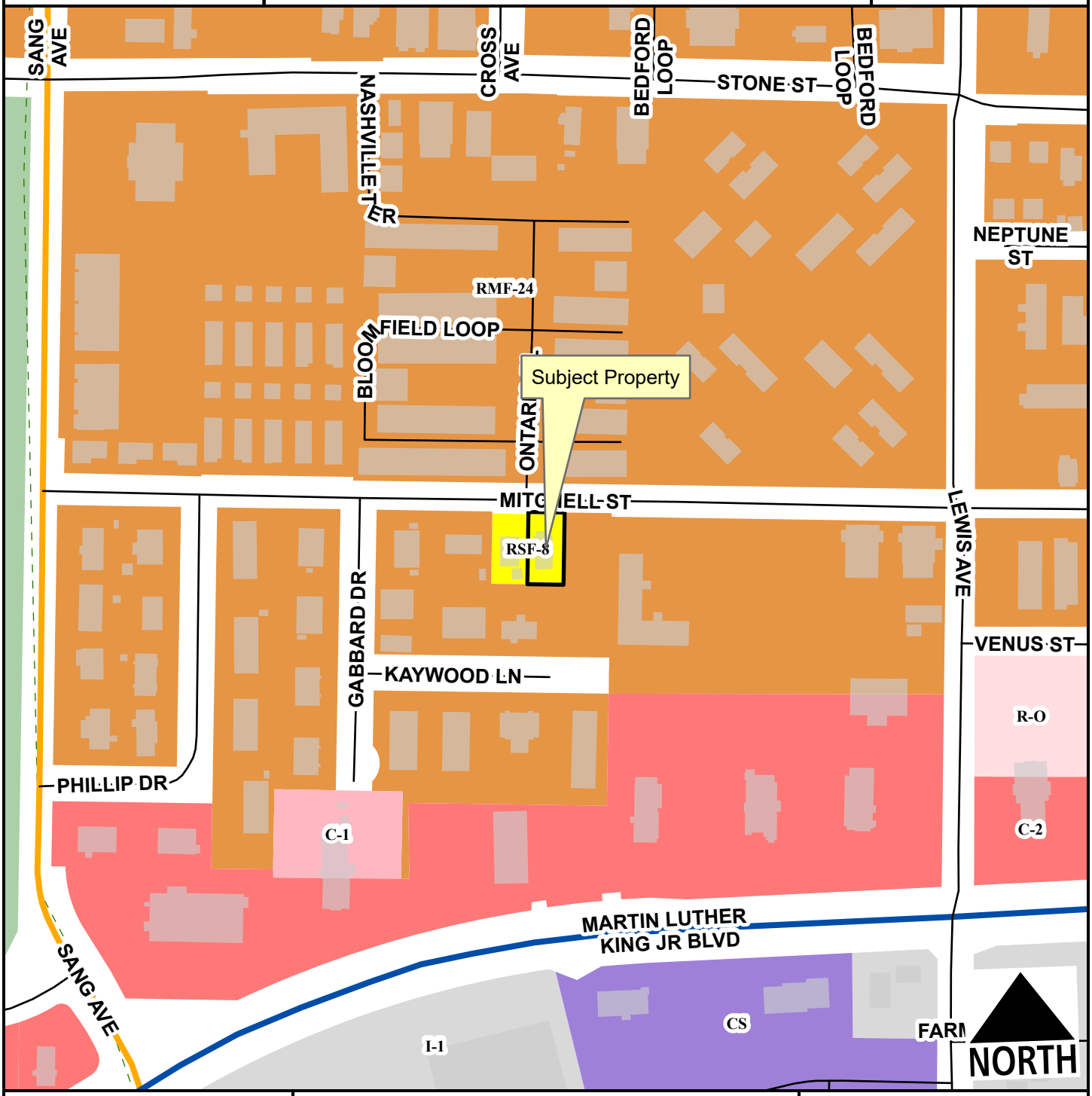
PLANNED ZONING DISTRICTS
- Commercial, Industrial, Residential

INSTITUTIONAL
- P-1

CUP-2023-0028

Close Up View

1831 W. MITCHELL ST



Neighborhood Link
Regional Link - High Activity
Unclassified
Residential Link
Planning Area
Fayetteville City Limits
Trail (Proposed)

Feet
0 75 150 300 450 600
1:2,400

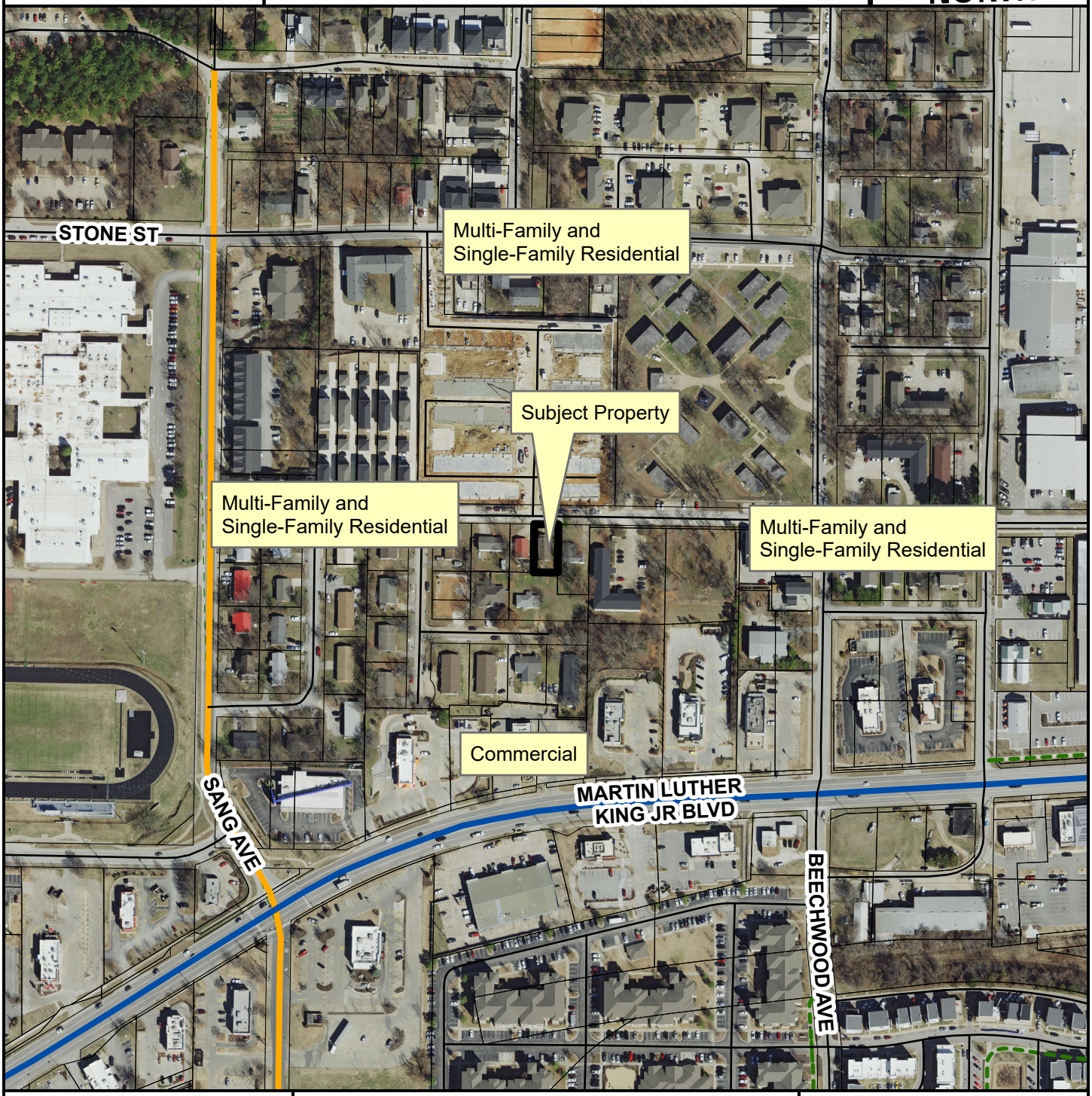
RSF-8
RMF-24
I-1 Heavy Commercial and Light Industrial
Residential-Office
C-1
C-2
Community Services
P-1

CUP-2023-0028

Current Land Use

1831 W. MITCHELL ST

NORTH



- Neighborhood Link
- Regional Link - High Activity
- Unclassified
- Residential Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits

Feet

0 112.5 225 450 675 900

1:3,600

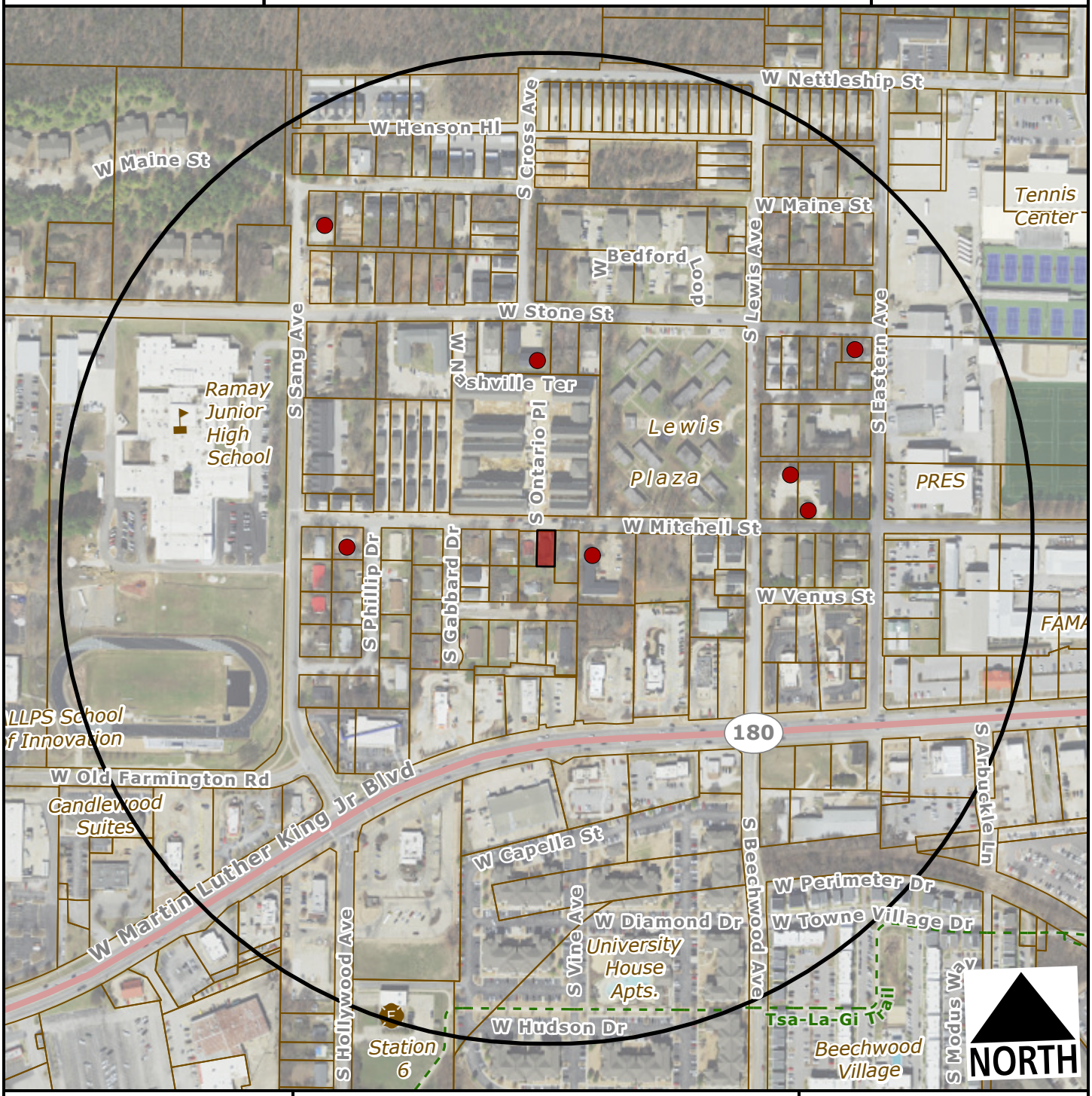
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0028

STRs Within 1/4 Mile

1831 W. MITCHELL ST



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Number of STR Licenses

Contributing to 2% density cap	7
NOT contributing to 2% density cap	0
Total	**7**

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Planner

MEETING DATE: March 27, 2023

SUBJECT: **CUP-2023-0029: Conditional Use Permit (1835 W. MITCHELL ST./GINGER, 520):** Submitted by NAN GINGER for property located at 1835 W. MITCHELL ST. The property is zoned RSF-8, RESIDENTIAL SINGLE-FAMILY, 8 UNITS PER ACRE and contains approximately 0.10 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0029** with conditions as outlined by staff.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0029**, determining:*

- *In favor of compatibility with adjacent properties, and*
- *In favor of all other conditions as recommended by staff."*

BACKGROUND:
The subject property is located just west of the University of Arkansas main campus on the south side of Mitchell Street. The property contains approximately 0.10 acres and is currently developed with a two-bedroom single-family dwelling that was built in 1987. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1.*

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Multi-Family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre
South	Single-Family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre
East	Single-Family Residential	RSF-8, Residential Single-Family, 8 Units per Acre
West	Single-Family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre

City Plan 2040 Future Land Use Designation: **City Neighborhood**

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term rentals are subject to density limitations, including a 2% citywide cap, and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

Public Comment: Staff has not received any public comment regarding this request.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0029** with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible with the neighborhood based on the findings in this report.*

2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in the development code.

3. Per UDC §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within one year of conditional use permit approval.

4. Per ordinance, the number of occupants is limited to a maximum of two people per bedroom, plus two, for the entire unit when the property is operated as a short-term rental.

5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.

6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

7. All trash receptacles shall be screened from view of the right-of-way.

8. All outdoor lighting shall meet requirements as outlined in UDC Chapter 176, Outdoor Lighting.

9. Any signage shall meet the requirements as outlined in UDC Chapter 174, Signs.

PLANNING COMMISSION ACTION:	**Required**	**YES**	
Date: March 27, 2023	**❒ Tabled**	**❒ Approved**	**❒ Denied**
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.

2. Decide such questions as are involved in determining whether a conditional use should be granted; and,

3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or

4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

C. Procedures. A conditional use shall not be granted by the Planning Commission unless and until:

1. A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.

Finding: The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental in RSF-8 zoning.

2. The applicant shall pay a filing fee as required under Chapter 159 to cover the cost of expenses incurred in connection with processing such application.

Finding: The applicant has paid the required filing fee.

3. The Planning Commission shall make the following written findings before a conditional use shall be issued:

(a.) That it is empowered under the section of this chapter described in the application to grant the conditional use; and

Finding: The Planning Commission is empowered under City Code §118.01(E)(2) to grant the requested conditional use permit.

(b.) That the granting of the conditional use will not adversely affect the public interest.

Finding: Staff finds that granting the requested conditional use is unlikely to adversely affect the public interest given the applicable business license requirements, including a required building safety inspection, and applicable density caps on Type 2 short-term rentals.

(c.) The Planning Commission shall certify:

(1.) Compliance with the specific rules governing individual conditional uses; and

Finding: There are specific rules governing short-term rentals, as follows:

§163.18. SHORT-TERM RENTALS.

A. **Residential Zoning Districts.** Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts: R-A, RSF-.5, RSF-1, RSF-2, RSF-4, RSF-7, RSF-8, RSF-18, RI-12, RI-U, RMF-6, RMF-12, RMF-18, RMF-24, RMF-40, and NC. Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district. Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

Finding: **The request is to operate a Type 2 short-term rental in RSF-8 zoning. Since RSF-8 is a residential zoning district, a conditional use permit is required.**

B. **Occupancy.** Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

Finding: **Occupancy is limited as described in UDC §163.18(B). Occupancy limitations are confirmed by the applicant during licensing. Since this house contains two bedrooms, occupancy will likely be limited to a maximum of six guests.**

C. **Parking.** Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

Finding: **Parking is limited as described in UDC §163.18(C). Parking for single-family homes is required to be provided at a rate of two spaces per unit, and up to four vehicles are permitted to be parked outdoors on the property. Based on the applicant's submittal, there appears to be space to park three vehicle in an existing driveway.**

D. Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

Finding: **The application letter suggests the property will comply with the City's regulations for a short-term rental. As a condition of approval, staff recommends a prohibition on special events.**

E. Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

Finding: **The application is for use of the property at 1835 W. Mitchell St. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.**

F. **Exceptions.** Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

Finding: **Type 2 short-term rentals are subject to a city-wide density cap at 2% of total dwelling units, as determined by United States Census Bureau data.**

Recently released five-year American Community Survey data from 2021 lists total housing units in Fayetteville at 44,706, which puts the cap at 894 total Type 2 short-term rentals. To date, the City has issued 314 Type 2 short-term rental licenses that are subject to this cap. Hotel/motel uses are not permitted by right in RSF-8 zoning, so this short-term rental would contribute to the city-wide density cap. No exceptions to the short-term rental standards are being requested with this conditional use permit.

G. Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

Finding: **This short-term rental would be subject to all regulations in City Code §118.01 that apply to Type 2 short-term rentals in residential zoning districts. Applicable business licensing requirements will be reviewed by staff and confirmed by the applicant at the time of licensing.**

H. Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

1. Adequate parking infrastructure;

2. Adequate adjoining or nearby streets for on-street parking;

3. Frequency or concentration of nearby licensed Type 2 short-term rentals; and

4. Prior zoning or code violations.

Finding: **There appears to be sufficient parking available to support the use of the property as a short-term rental based on the applicant's submittal. Three off-street parking spaces are available in an existing driveway, and Mitchell Street is wide enough to support additional on-street parking. City business license records indicate that seven other units within a quarter-mile radius have active Type 2 short-term rental business licenses. No prior zoning or code violations have been reported on this property.**

§163.02. AUTHORITY; CONDITIONS; PROCEDURES. (continued)

(2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:

(a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: **Vehicular ingress and egress to the site is available through an existing driveway with access onto Mitchell Street. Staff finds that the proposal will not adversely affect traffic flows considering the use of the property would be limited to a maximum of six guests, which would not be out of character with the use of the property for residential purposes. On-street parking is also available along Mitchell Street to accommodate additional vehicles.**

(b.) Off-street parking and loading areas where required, with particular attention to ingress and egress, economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

Finding: **The applicant has indicated that there are three guest vehicle parking spaces available in an existing paved driveway. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.**

(c.) Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading,

Finding: **The applicant proposes to utilize existing residential trash cart service. Staff recommends that the containers be screened from public view when not placed at the curb for residential pick-up.**

(d.) Utilities, with reference to locations, availability, and compatibility;

Finding: **Utilities are currently available to the property and its use as a short-term rental is not anticipated to impact the provision of utilities.**

(e.) Screening and buffering with reference to type, dimensions, and character;

Finding: **Staff recommends that residential carts be screened so that they are not visible from the public right-of-way.**

(f.) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

Finding: **Any proposed signage will be subject to Unified Development Code Chapter 174, Signs, and all regulations therein.**

(g.) Required yards and other open space; and

Finding: **Based on the applicant's submittal, the structure is meeting relevant setbacks.**

(h.) General compatibility with adjacent properties and other property in the district.

Finding: **Staff finds the proposed use to be compatible with surrounding properties. The property is surrounded by residential uses, and short-term rentals are permitted by right in the RSF-8 zoning district. There appears to be adequate parking to accommodate the number of permitted guests, and staff does not**

anticipate any adverse traffic impacts with this request. The RSF-8 zoning district does not allow hotel/motel uses by right, so this short-term rental would contribute to the city-wide density cap.

BUDGET/STAFF IMPACT:
None

ATTACHMENTS:

- Business Regulations
  - §118.01 Applicability
- Unified Development Code
  - §161.09 District RSF-8, Residential Single-Family – Eight (8) Units Per Acre
  - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
- Applicant Request Letter
- Building Floor Plan and Site Plan
- Building Elevations
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

118.01 Applicability

(E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.

(1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.

(2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.

(3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:

(a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
(b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
(c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.

(4) A separate business license shall be required for each dwelling unit used as a short-term rental.

(5) Any change in ownership requires a new or amended business license.

(6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.

(7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:

(a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
(b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
(c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
(d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
(e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
(f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
(g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.

(8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).

(11) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:

(a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
(b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
(c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.

(10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate compliance with

this section. For the purposes of these regulations, 'availability' means that the owner or agent is accessible by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.

(11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.

(12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.

(13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.

(14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.

(15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).

(16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 2% of all dwelling units in the Fayetteville city limits may be utilized as Type 2 rentals. Total dwelling units are determined from current United States Census Bureau and/or American Community Survey numbers, whichever number is higher. A conditional use permit may not permit:

(a) More Type 2 short-term rentals than what is allowed by the city-wide density cap. Type 2 short-term rentals in commercial and mixed-use zoning districts where hotel/motels are permitted by right shall not contribute to the city-wide density cap.
(b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
(c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
(d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.

(17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.

(18) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

(Ord. No. 6427 , §§1(Exh. A), 2, 4-20-21; Ord. No. 6505 , §1(Exh. A), 11-16-21; Ord. No. 6521 , §§1, 2, 1-18-22; Ord. No. 6537 , §1(Exh. A), 2-15-22)

161.09 District RSF-8, Residential Single-Family - Eight (8) Units Per Acre

(A) *Purpose.* The RSF-8 Residential District is designed to bring historic platted development into conformity and to allow for the development of new single family residential areas with similar lot size, density, and land use as the historical neighborhoods in the downtown area.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 9	Two-family dwellings
Unit 12a	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities
Unit 44	Cluster Housing Development

(C) *Density.*

	By Right
Single-family dwelling units per acre	8 or less

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Single-family	50 feet
Two (2) family	50 feet
Townhouse, no more than two (2) attached	25 feet

(2) *Lot Area Minimum.*

Single-family	5,000 square feet
Two-family	5,000 square feet

(3) *Land Area Per Dwelling Unit*.

Single-family	5,000 square feet
Two-family	5,000 square feet
Townhouse, no more than two (2) attached	2,500 square feet

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	5 feet

(F) *Height Regulations.*

Building Height Maximum	3 stories

(G) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area, except when a detached garage exists or is proposed; then the area occupied by all buildings shall not exceed 60% of the total lot area. Accessory ground mounted solar energy systems shall not be considered buildings.

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

(A) *Residential Zoning Districts.* Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts:

1) R-A
2) RSF-.5
3) RSF-1
4) RSF-2
5) RSF-4
6) RSF-7
7) RSF-8
8) RSF-18
9) RI-12
10) RI-U
11) RMF-6
12) RMF-12
13) RMF-18
14) RMF-24
15) RMF-40
16) NC

Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district.

Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

(B) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

(C) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

(D) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

(E) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

(F) *Exceptions.* Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

(G) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

(H) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

1) Adequate parking infrastructure;

2) Adequate adjoining or nearby streets for on-street parking;

3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and

4) Prior zoning or code violations

(Ord. No. 6427 , §§1(Exh. E), 2, 4-20-21; Ord. No. 6505 , §2(Exh. B), 11-16-21; Ord. No. 6537 , §2(Exh. B), 2-15-22)

REQUEST LETTER RE:

1835 W Mitchell St, Conditional Use Type 2 Rental

1a) 912 sq Ft. No expansion of existing structure.

1b) Pictures in PDF Attached.

1c) 3 off-street Parking Spaces

1d) N/A

1e) Front and rear porch lighting, city street lighting

1f) Residential Neighborhood, no noise mitigation expected.

1g) See attached pictures: Fence, landscaping consistent with residential and neighborhood use.

1h) See attached site plan, LOCATED IN DRIVEWAY: city of Fayetteville residential refuse collection

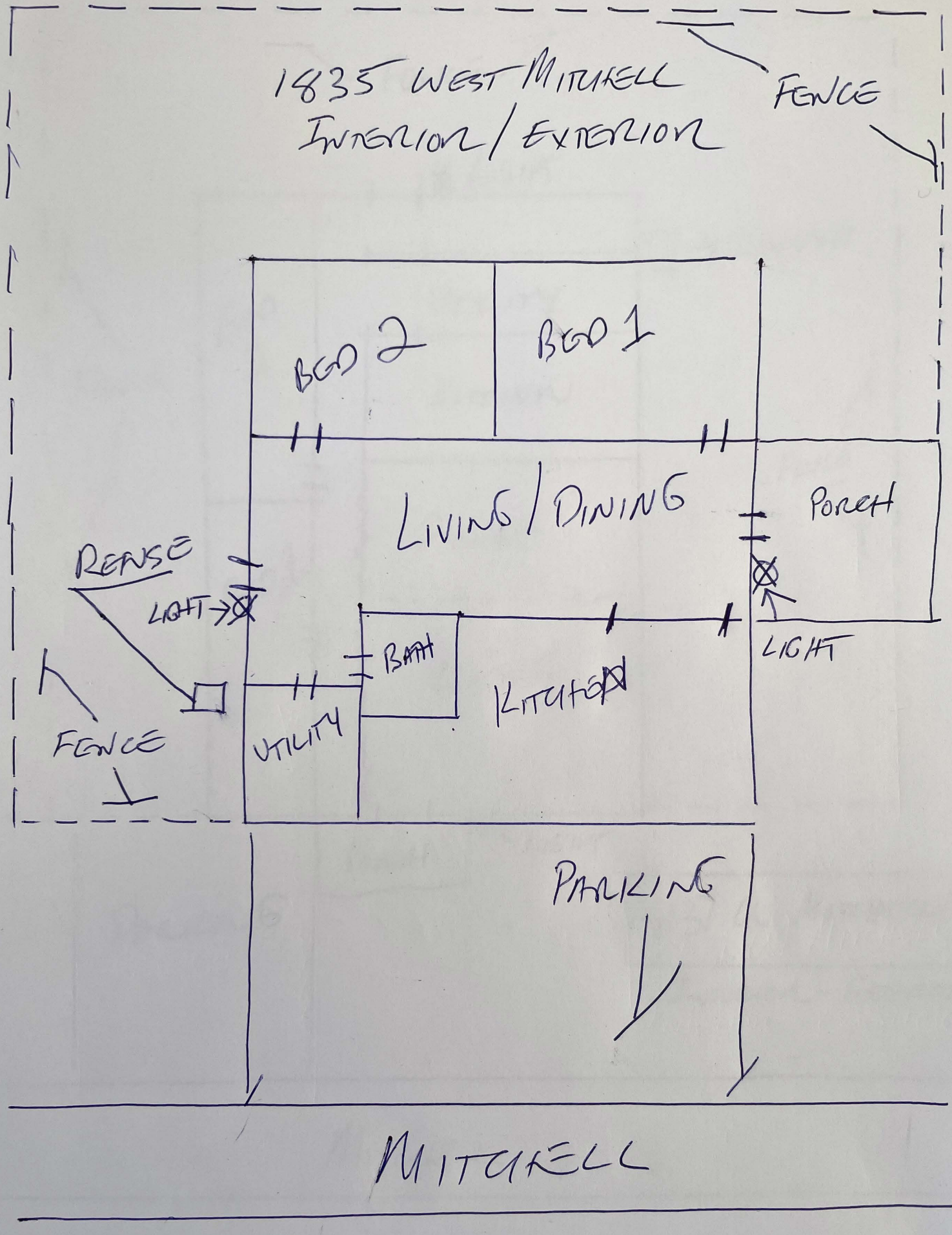
1i) Residential Street and up to 3 car parking in driveway.

1j) Residential Use Only, per Short Term Rental Guidelines of the City of Fayetteville.

2) LEGAL DESCRIPTION

Lot 1-A of the Lot Split Survey of Blew & Associates, Surveyors, dated May 1, 2018, and recorded May 16, 2018, as Instrument Number 2018-00013869 in the office of the Circuit Clerk and Recorder of Washington County, Arkansas and being the West Half of Lot 1, Block 1, of Valley Vista Subdivision to the City of Fayetteville, Arkansas, as shown on Plat of Record in Plat Book 1, at page 153, plat records of Washington County, Arkansas. Subject to all easements of record or fact.

3) 4) 5) 6) SEE ATTACHEMENTS


1835 WEST MITCHELL
INTERIOR / EXTERIOR
FENCE
BED 2
BED 1
LIVING / DINING
PORCH
RENSE
LIGHT
LIGHT
BATH
KITCHEN
UTILITY
FENCE
PARKING
MITCHELL

Subject: 1835 West Mitchell

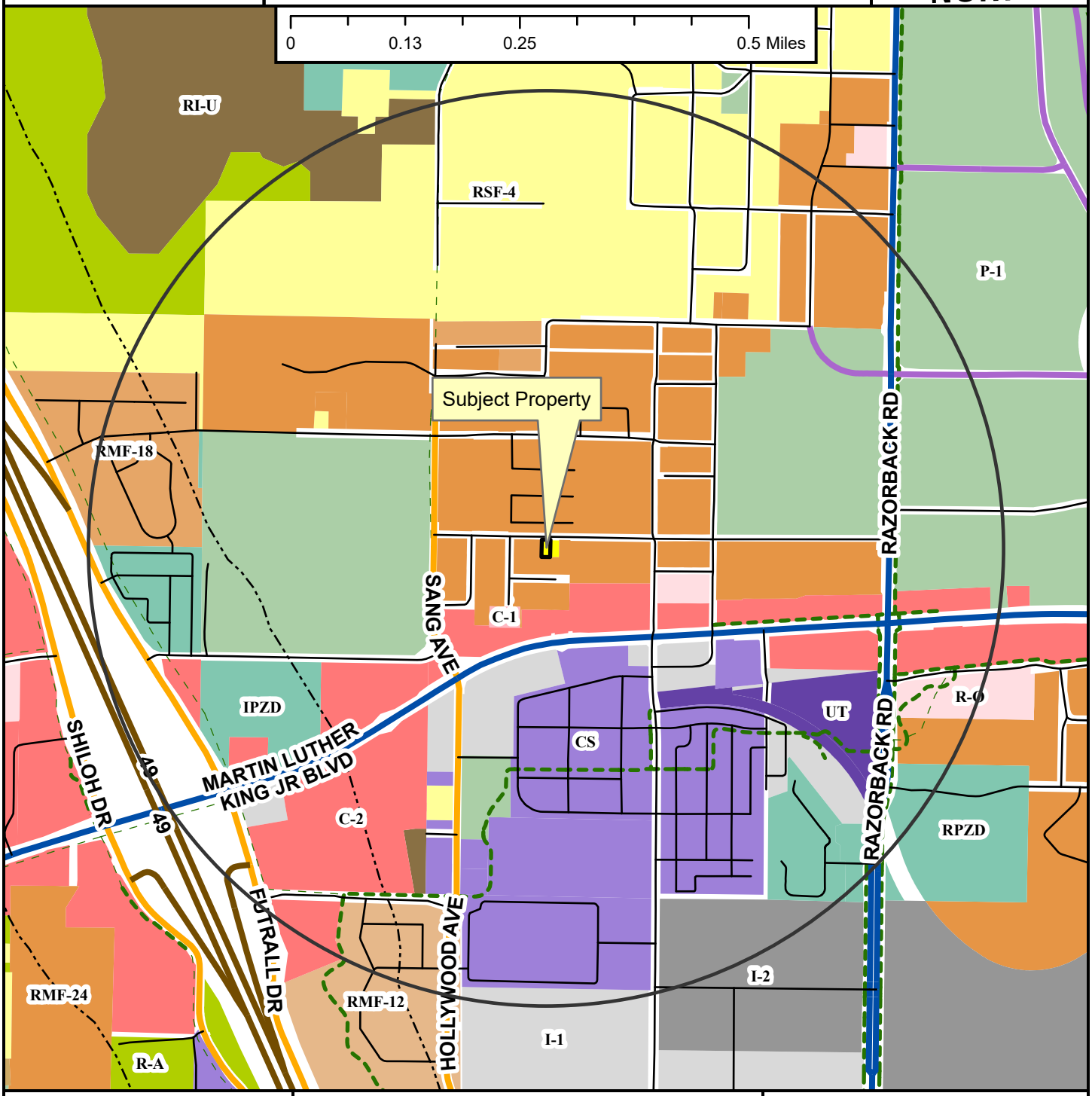
Michael Moyer
C 312.952.1194

CUP-2023-0029

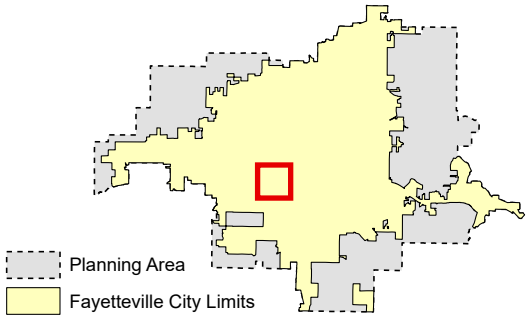
One Mile View

1835 W. MITCHELL ST

NORTH



- Neighborhood Link
- Institutional Master Plan
- Regional Link - High Activity
- Freeway/Expressway
- Unclassified
- Alley
- Residential Link
- Planned Neighborhood Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Fayetteville City Limits
- Planning Area



Zoning

RESIDENTIAL SINGLE-FAMILY
NS-G
RI-U
RI-12
NS-L
Residential-Agricultural
RSF-.5
RSF-1
RSF-2
RSF-4
RSF-7
RSF-8
RSF-18

RESIDENTIAL MULTI-FAMILY
RMF-6
RMF-12
RMF-18
RMF-24
RMF-40

INDUSTRIAL
I-1 Heavy Commercial and Light Industrial
I-2 General Industrial

EXTRACTION
E-1

COMMERCIAL
Residential-Office
C-1
C-2
C-3

FORM BASED DISTRICTS
Downtown Core
Urban Thoroughfare
Main Street Center
Downtown General
Community Services
Neighborhood Services
Neighborhood Conservation

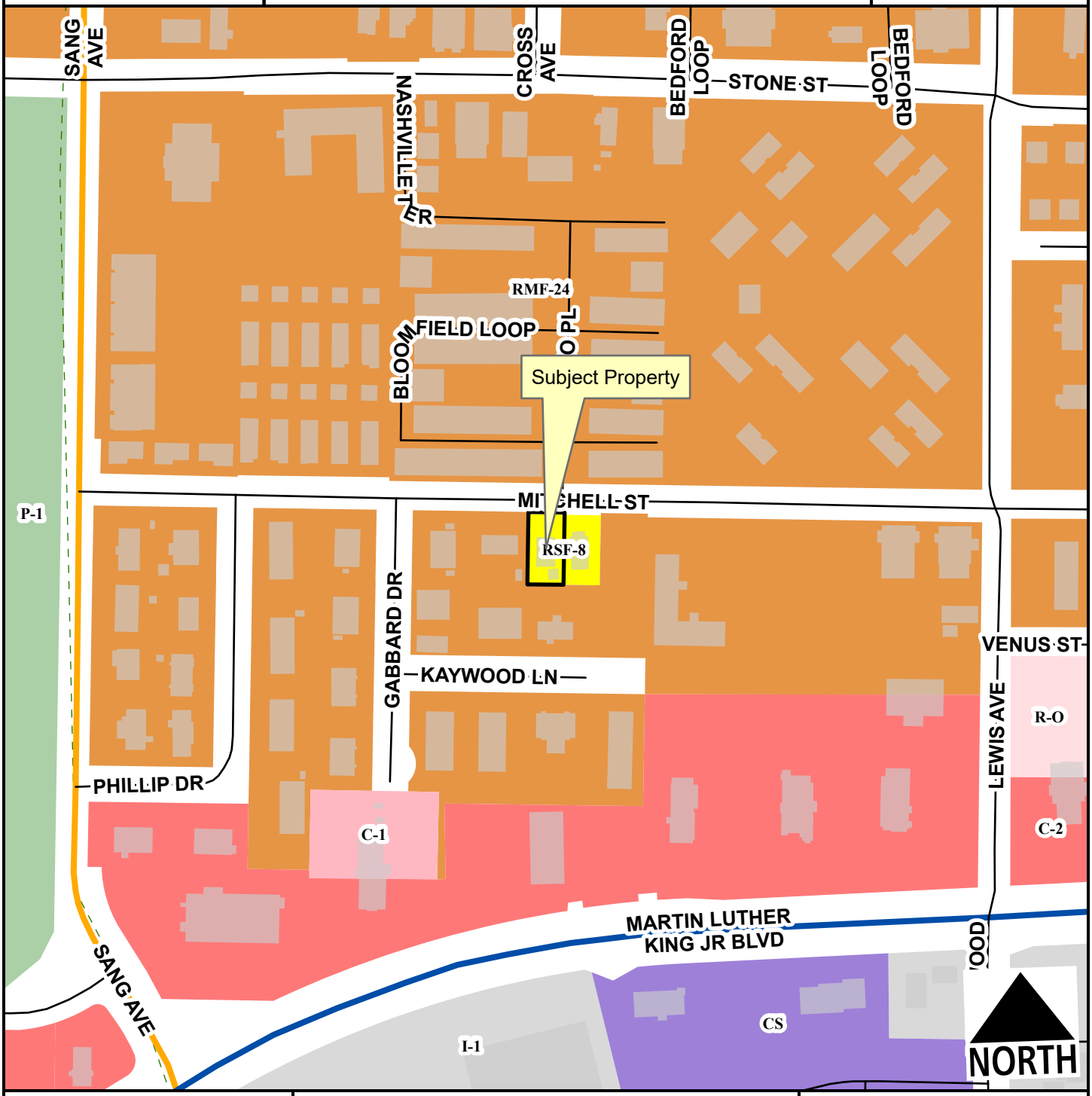
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

CUP-2023-0029

Close Up View

1835 W. MITCHELL ST



Neighborhood Link
Regional Link - High Activity
Unclassified
Residential Link
Planning Area
Fayetteville City Limits
Trail (Proposed)

Feet

0 75 150 300 450 600

1:2,400

RSF-8
RMF-24
I-1 Heavy Commercial and Light Industrial
Residential-Office
C-1
C-2
Community Services
P-1

CUP-2023-0029

Current Land Use

1835 W. MITCHELL ST

NORTH

- Neighborhood Link
- Regional Link - High Activity
- Unclassified
- Residential Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits

Feet

0 112.5 225 450 675 900

1:3,600

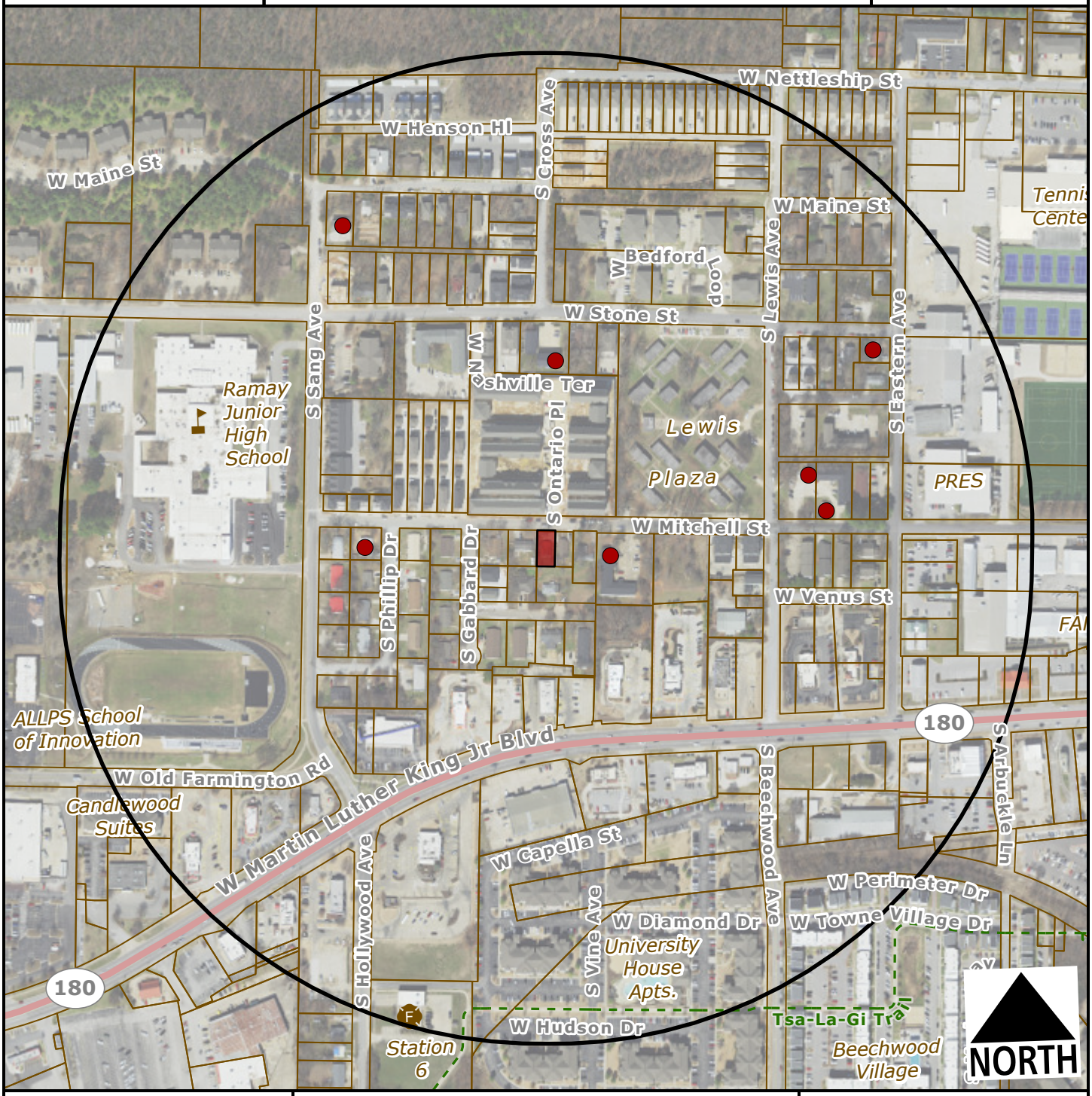
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0029

STRs Within 1/4 Mile

1835 W. MITCHELL ST



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Number of STR Licenses

Contributing to 2% density cap	7
NOT contributing to 2% density cap	0
Total	**7**

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: March 27, 2023

SUBJECT: **CUP-2023-0030: Conditional Use Permit (2827 W. LAKEWOOD DR/ CROSBY, 519):** Submitted by ENC HOLDINGS LLC for property located at 2827 W. LAKEWOOD DR. The property is zoned RPZD, RESIDENTIAL PLANNED ZONING DISTRICT and contains approximately 0.01 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-003** based on the findings in this report.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0030** with conditions, determining:*

- *In favor of compatibility with adjacent properties;*
- *In favor of all other conditions as recommended by staff."*

BACKGROUND:
The subject property is located in west Fayetteville directly between I-49 and Centennial Park. It is part of an RPZD, Residential Planned Zoning District and is included in the I-49 sign overlay district. There are no FEMA floodplain / flood way, streamside protection zones, hydric soils, or other overlay districts on the property. The parcel is currently developed as part of a 1,377 square foot townhome constructed in 2018.On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1.*

Table 1

Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Multi-Family Residential	RMF-24, Residential Multifamily, 24 Units per Acre
South	Single-family Residential	RPZD, Residential Planned Zoning District
East	I-49 Highway	Right-of-Way
West	Centennial Park	P-1, Institutional

City Plan 2040 Future Land Use Designation: **City Neighborhood**

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term

rentals are subject to density limitations, including a 2% citywide cap, and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

Public Comment: Staff has not received any public comment on the proposed request.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0030** based on the findings in this report, with the following conditions.

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible with the neighborhood based on the findings in this report;*

2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in the development code.

3. Per §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within 1 year of conditional use permit approval.

4. Per ordinance, the number of occupants is limited to a maximum of two people per bedroom, plus two, for the entire unit when the property is operated as a short-term rental.

5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.

6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

7. All trash receptacles shall be screened from view of the right-of-way.

8. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.

9. Any signage shall meet the requirements as outlined in §174, Signage.

PLANNING COMMISSION ACTION:	**Required**	**YES**	
Date: March 27, 2023	**❒ Tabled**	**❒ Approved**	**❒ Denied**
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.

2. Decide such questions as are involved in determining whether a conditional use should be granted; and,

3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or

4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

C. A conditional use shall not be granted by the Planning Commission unless and until:

1. A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.

Finding: **The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental in the PZD zoning district;**

2. The applicant shall pay a filing fee as required under Chapter 159 to cover the cost of expenses incurred in connection with processing such application.

Finding: **The applicant has paid the required filing fee.**

3. The Planning Commission shall make the following written findings before a conditional use shall be issued:

(a.) That it is empowered under the section of this chapter described in the application to grant the conditional use; and

Finding: **The Planning Commission is empowered under Unified Development Code §118.01(E)(2) to grant the requested conditional use permit.**

(b.) That the granting of the conditional use will not adversely affect the public interest.

Finding: **Additional information is needed to determine potential impact to the public interest.**

(c.) The Planning Commission shall certify:

(1.) Compliance with the specific rules governing individual conditional uses; and

Finding: **There are specific rules governing Short-Term Rentals, as follows:**

§163.18 - SHORT-TERM RENTALS

A. General Standards.

(1) Residential Zoning Districts. Residential Zoning Districts. Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts: R-A, RSF-.5, RSF-1, RSF-2, RSF-4, RSF-7, RSF-8, RSF-18, RI-12, RI-U, RMF-6, RMF-12, RMF-18, RMF-24, RMF-40, NC. Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district. Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

Finding: **The request is to operate a Type 2 Short-Term Rental, Use Unit 46, in RPZD zoning. Use Unit 46 (Type 2) is a conditional use in the PZD zoning district.**

(2) Occupancy. Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

Finding: **Occupancy is limited as described in UDC §163.18(A)(3). As the structure has two (2) bedrooms, occupancy will likely be limited to six (6) tenants.**

(3) Parking. Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

Finding: **The applicant's letter states that a two-car garage and two-car driveway is available and that 18-20 additional public parking spaces are available adjacent to the property. Staff recommends parking is limited as described in UDC §163.18(A)(4).**

(4) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

Finding: **The application letter suggests the property will comply with the City's regulations for a short-term rental. As a condition of approval, staff recommends a prohibition on special events.**

(5) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

Finding: **The application is for use of the property at 2827 W. Lakewood Dr. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.**

(6) Exceptions. Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

Finding: **Type 2 short-term rentals are subject to a citywide density cap at 2% of total dwelling units, as determined by United States Census Bureau data. Recently released 5-year data from the 2021 list total housing units in Fayetteville at 44,706, which puts the cap at 894 total Type 2 short-term rentals. To date, there are 314 Type 2 short-term rental licenses that are subject to this cap. Hotel and motel uses are not permitted by right in the RPZD, Residential Planned Zoning district so this short-term rental will contribute to the city-wide density cap. Since it is a multi-family structure where units are held through separate ownership, no cap applies to the specific structure.**

(7) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

Finding:

(8) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

1) Adequate parking infrastructure;
2) Adequate adjoining or nearby streets for on-street parking;
3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and
4} Prior zoning or code violations.

Finding: **There appears to be adequate parking available to support the use of the property as a short-term rental based on the applicant's submittal. There are four (4) off-street parking spaces available on property and public off-street parking available nearby. City business licenses show six (6) legally operating type 2 short term rentals with 0.25 miles of the subject property. No prior zoning or code violations were found for the address.**

§163.02, AUTHORITY; CONDITIONS; PROCEDURES. (continued)

(2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:

(a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: **The property appears to have adequate parking. The property is located within a neighborhood only accessible via N Shiloh Dr, which consists of two one-way south-bound lanes adjacent to I-49. A traffic study completed for the original LSD (attached) determined that the neighborhood entries would operate at a "B" level of service during peak morning and evening hours. There are no sidewalks within the PZD, and the Shiloh Trail is**

currently disconnected from the larger trail system to both the north and south. The Fayetteville Traverse soft surface trail comes within approximately 50 feet of the neighborhood's southwest property line, but an official, maintained trail connection from the neighborhood to the Traverse does not currently exist.

(b.) Off-street parking and loading areas where required, with particular attention to ingress and egress, economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

Finding: **The submittal indicates the property has adequate off-street parking on site, and that an overflow area exists nearby with additional off-street parking for users of the neighborhood. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.**

(c.) Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading,

Finding: **The applicant proposes to utilize existing residential trash cart service. Staff recommends that the containers should be screened from public view when not at the curb for residential pick-up.**

(d.) Utilities, with reference to locations, availability, and compatibility;

Finding: **Utilities are currently available to the site, and the use as a short-term rental is not anticipated to impact the provision of utilities.**

(e.) Screening and buffering with reference to type, dimensions, and character;

Finding: **Staff recommends that residential carts be screened so that they are not visible from the public right-of-way.**

(f.) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

Finding: **Any proposed signage will be subject to Unified Development Code section 174 – Signs, and all the regulations therein.**

(g.) Required yards and other open space; and

Finding: **Based on the existing structure permit, the structure is meeting relevant setbacks.**

(h.) General compatibility with adjacent properties and other property in the district.

Finding: **Staff finds the use to be compatible with the surrounding residential properties. There are not a significant number of short-term rentals nearby, and the property appears to have adequate parking to handle the needs of the proposed use. Since the RPZD zoning district does not allow hotel/motel uses by right, this short-term rental would contribute to the city-wide density cap.**

BUDGET/STAFF IMPACT:
None

Attachments:

- Business Regulations–
  - §118.01 Applicability
- Unified Development Code
  - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
  - RPZD Ordinance Excerpts (Village at Shiloh)
- Original Traffic Study by Peters & Associates
- Applicant Request Letter
- Building Floor Plan Exhibit
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

118.01 Applicability

(E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.

(1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.

(2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.

(3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:

(a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
(b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
(c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.

(4) A separate business license shall be required for each dwelling unit used as a short-term rental.

(5) Any change in ownership requires a new or amended business license.

(6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.

(7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:

(a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
(b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
(c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
(d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
(e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
(f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
(g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.

(8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).

(11) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:

(a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
(b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
(c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.

(10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate compliance with

this section. For the purposes of these regulations, 'availability' means that the owner or agent is accessible by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.

(11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.

(12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.

(13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.

(14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.

(15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).

(16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 2% of all dwelling units in the Fayetteville city limits may be utilized as Type 2 rentals. Total dwelling units are determined from current United States Census Bureau and/or American Community Survey numbers, whichever number is higher. A conditional use permit may not permit:

(a) More Type 2 short-term rentals than what is allowed by the city-wide density cap. Type 2 short-term rentals in commercial and mixed-use zoning districts where hotel/motels are permitted by right shall not contribute to the city-wide density cap.
(b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
(c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
(d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.

(17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.

(20) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

(Ord. No. 6427 , §§1(Exh. A), 2, 4-20-21; Ord. No. 6505 , §1(Exh. A), 11-16-21; Ord. No. 6521 , §§1, 2, 1-18-22; Ord. No. 6537 , §1(Exh. A), 2-15-22)

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

(A) *Residential Zoning Districts.* Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts:

1) R-A
2) RSF-.5
3) RSF-1
4) RSF-2
5) RSF-4

6) RSF-7
7) RSF-8
8) RSF-18
9) RI-12
10) RI-U
11) RMF-6
12) RMF-12
13) RMF-18
14) RMF-24
15) RMF-40
16) NC

Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district.

Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

(B) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

(C) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

(D) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

(E) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

(F) *Exceptions.* Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

(G) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

(H) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

1) Adequate parking infrastructure;

2) Adequate adjoining or nearby streets for on-street parking;

3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and

4) Prior zoning or code violations

(Ord. No. 6427 , §§1(Exh. E), 2, 4-20-21; Ord. No. 6505 , §2(Exh. B), 11-16-21; Ord. No. 6537 , §2(Exh. B), 2-15-22)

FINDINGS AND RECOMMENDATIONS

Findings of this study are summarized as follows:

- Traffic volumes projected to be generated by the proposed Village at Shiloh residential land use are approximately 1,172 vehicle trips (combined in and out) per average weekday.

- The AM peak hour (7:00 – 8:00 AM) and the PM peak hour (5:00 – 6:00 PM) have been determined to be the worst-case traffic conditions in the vicinity. It is estimated that approximately 88 additional vehicle trips will seek ingress and egress at the site during the AM peak hour and approximately 104 additional vehicle trips will seek ingress and egress at the site during the PM peak hour at full development of the site.

- Capacity and level of service analysis was performed for projected traffic conditions with the construction of the proposed development for the adjacent street AM and PM peak hours. All of the vehicle movements at the two intersections analyzed are projected to operate at an acceptable LOS "B" or better during the AM and PM peak hours.

- For projected traffic conditions, analysis was conducted with the lane geometry as it currently exists on Shiloh Drive at the proposed access drives. Additionally, analysis was conducted with two-lane geometry on the access drives consisting of one entering lane and one exiting lane at their intersections with Shiloh Drive.

Recommendations of this study are summarized as follows:

- It is recommended that the two site access drives be constructed with an entering lane and an exiting lane at their intersections with Shiloh Drive.

- Curb cuts along Shiloh Drive must conform to the City of Fayetteville design standards and will require approval by the City of Fayetteville.

Original Study from LSD Plans

LOS	UNSIGNALIZED INTERSECTIONS	
	Avg. Total Delay (sec./veh.)	Description
A	≤10	This LOS is a free flow condition, with vehicles acting nearly independently to one another. There is little or no delay.
B	>10 and <15	This LOS is slightly restrictive condition with short traffic delays. The presense of other vehicles is noticeable by the driver.
C	>15 and <25	This LOS is the design level that engineers strive for during the service life of the facility. LOS C results from an average delay. The traffic flow is stable, but more restrictive.
D	>25 and <35	This LOS is noticeably more restrictive, and there are long traffic delays. This LOS results in poor driver comfort and in greater accident probabilities.
E	>35 and <50	At this LOS, the intersection is operating at capacity with little or no gaps. There are very long traffic delays and unstable intersection operation.
F	>50	At this LOS, there are more vehicles arriving at the approach than can be discharged. Extreme delays will be encountered.

RPZD Excerpts

Proposal: The applicant requests a rezone from RMF-24, Residential Multi-Family 24 Units per Acre to a Residential Planned Zoning District, R-PZD. The PZD will still permit multi-family development, but the customized zoning will allow the applicant to create individual lots for townhouse units on a private street, which is not permitted in the existing zoning.

Along with this PZD the applicant has submitted a preliminary plat to create 93 lots. Five of these lots will contain the five buildings that were approved earlier this year, but not individual lots for each lot. The remaining 88 lots will be created to allow each building unit to be located on a separate townhouse lot that can be sold.

INFRASTRUCTURE:

Streets:	A recently approved lot split created two large lots from the original project. Tract A contains approximately 2.68 acres and contains the original five buildings and associated private streets. This property has adequate frontage along Shiloh Drive for multi-family development and will remain zoned RMF-24. The remainder of the property will be zoned R-PZD and will have adequate private or public street frontage.
Water:	Public water has already been extended through the site.
Sewer:	Sanitary sewer has already been extended through the site.
Drainage:	Detention facilities have already been constructed.
Fire:	This property would be protected by Engine 7 located at 835 N. Rupple Road. It is 2 miles from the station to this site with an anticipated response time of four minutes to the beginning of the development.
Police:	The Police Department has not expressed any concerns with this rezoning request.

Public Comment: Staff has not received any public comment.

CITY PLAN 2030 FUTURE LAND USE PLAN: ***City Plan 2030 Future Land Use Map*** *designates a majority of this property as a* ***City Neighborhood Area.***

City Neighborhood Areas are more densely developed than residential neighborhood areas and provide a varying mix of nonresidential and residential uses. This designation supports the widest spectrum of uses and encourages density in all housing types, from single family to multifamily. Non-residential uses range in size, variety and intensity from grocery stores and offices to churches, and are typically located at corners and along connecting corridors. The street network should have a high number of intersections creating a system of small blocks with a high level of connectivity between neighborhoods. Setbacks and landscaping are urban in form with street trees typically being located within the sidewalk zone.

City Neighborhood Areas encourage complete, compact and connected neighborhoods and are intended to serve the residents of Fayetteville, rather than a regional population. While they encourage dense development patterns, they do recognize existing conventional strip commercial developments and their potential for future redevelopment in a more efficient urban layout.

A. CURRENT OWNERSHIP OF PROPERTY AND REPRESENTATIVE

The current owner of the property is D & B of Northwest Arkansas.

The representative for this project is Bates & Associates.

B. SUMMARY (SCOPE, NATURE, AND INTENT)

Hawkins House on Shiloh is being presented as a Master Development Plan PZD. The project is located on South Shiloh Drive north of Shiloh's intersection with Martin Luther King Blvd. A portion of the property has recently been put through Fayetteville's Large Scale Development process and is under construction. Another portion has been built and is currently occupied.

The lots will vary greatly in width from 24' to 233'. Blocks of townhomes or individual townhomes may be sold. Internally, the lots will have zero side and rear setbacks and will follow all necessary building codes as such. The style and exterior appearance will be similar to the houses being built on the Shiloh Village Property. Please refer to the architectural elevations in this submittal for details.

The reason for this PZD request is so the lots can be sold separately as townhomes. This will create an additional variety of for-sale housing that has become increasingly popular in recent years. The townhomes lots will range from 1000 sf to 1600 sf.

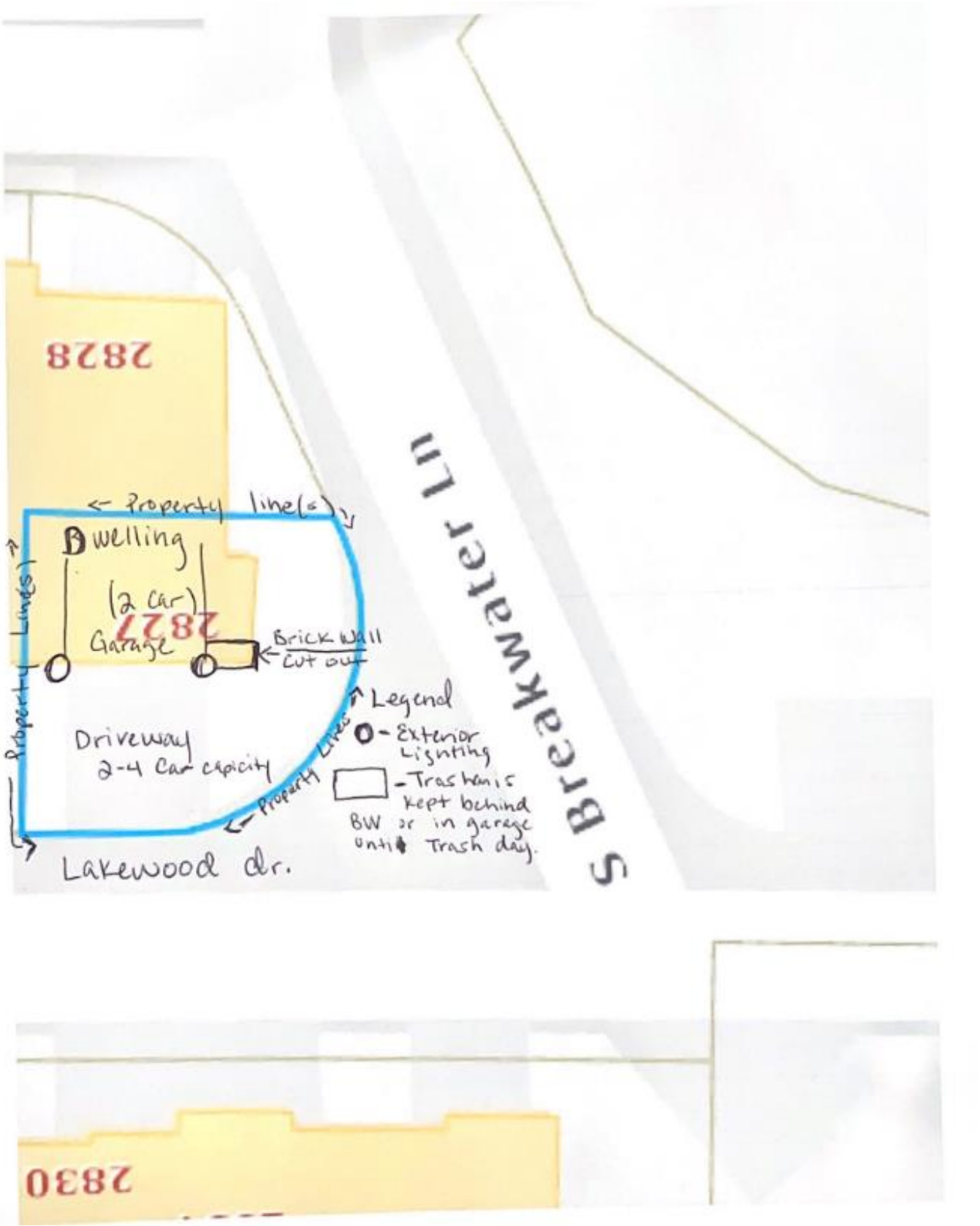
The property was originally approved by the City of Fayetteville as condominiums, but it has become clear that it's difficult to finance a condominium purchase, whereas Townhomes are somewhat easier to finance. The difference in this request is to create clear lot lines where the properties can more easily be sold. The units and look of the property will be the same as originally approved.

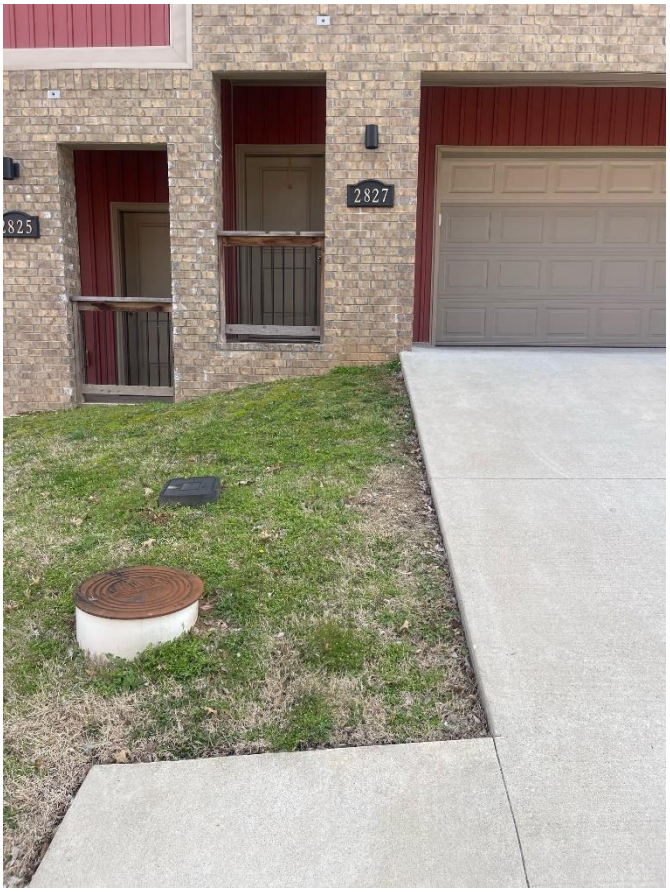
C. GENERAL PROJECT CONCEPT

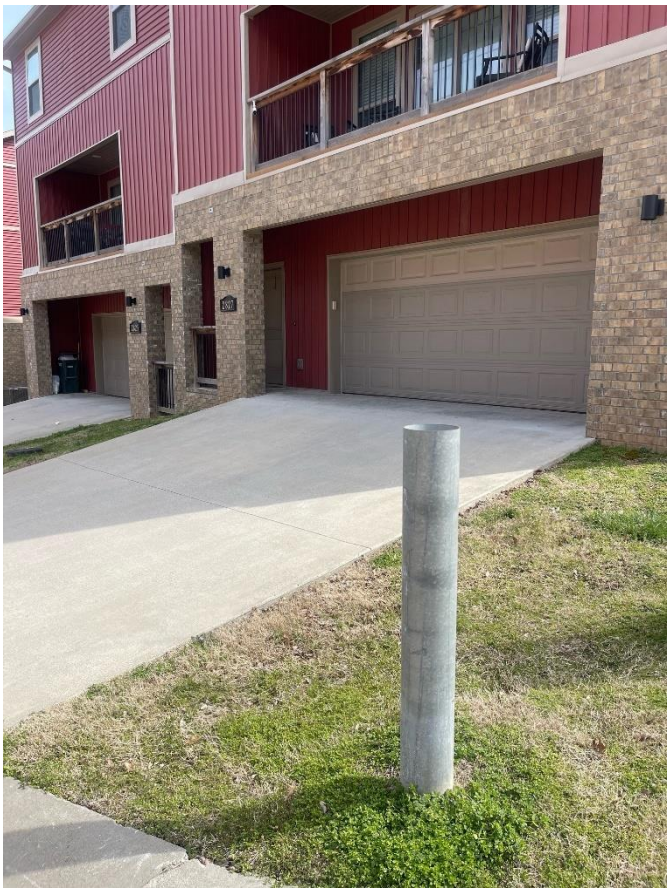
1) Street and Lot Layout
The overall property will face onto public Shiloh Drive. The lots themselves will face onto existing privates drives, which are currently platted within access easements.

2) Site Plan
Please refer to the attached plans.

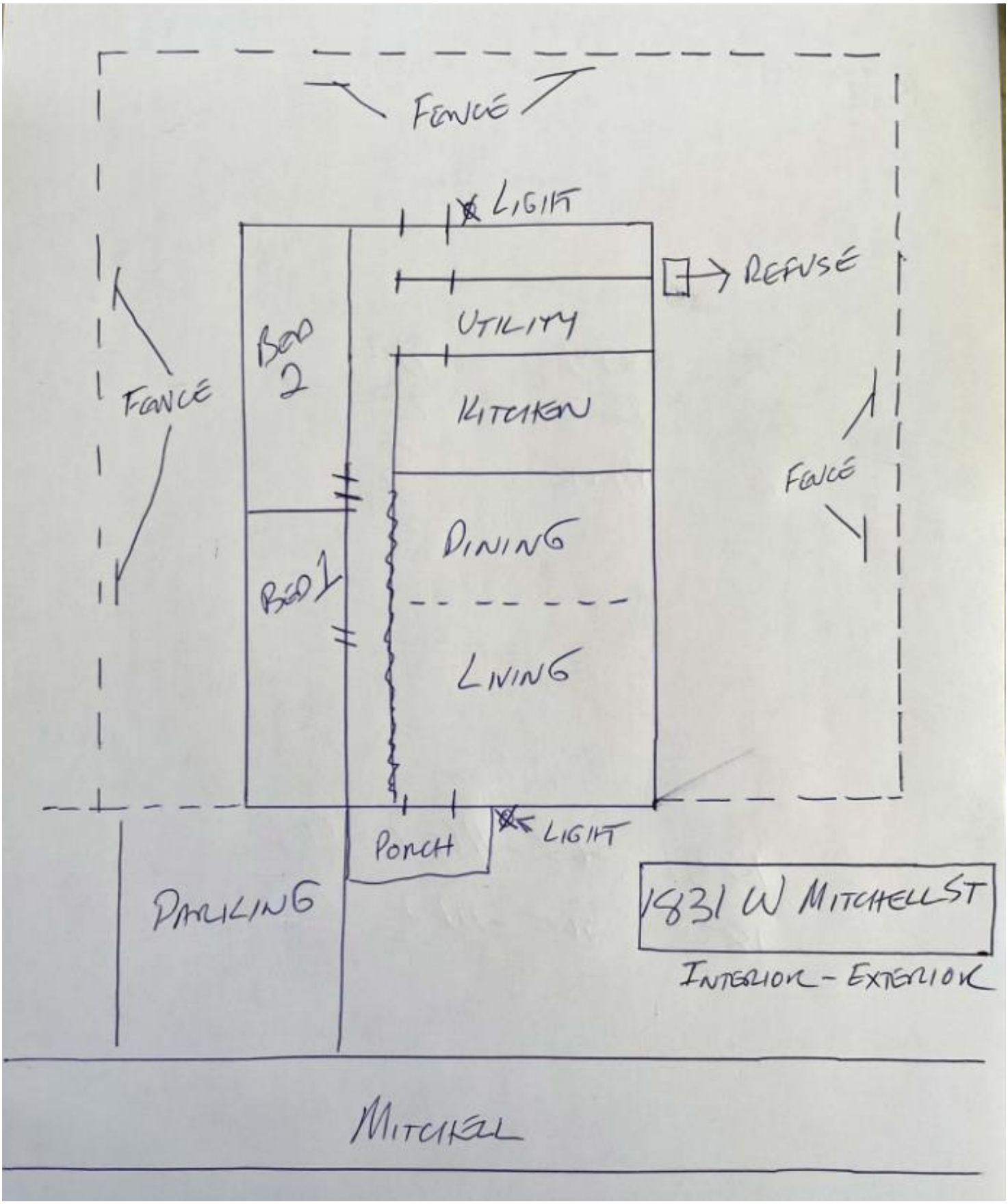
3) Buffer Areas
The homes facing Shiloh Drive will be set behind an existing 25' easement platted prior to Fayetteville's adoption for build-to-zones. The property did receive a variance from the Board of Adjustments to be outside of the build-to-zone. To the west is a large, previously dedicated parkland and tree preservation easement.


2828
Property line(s)
Dwelling
(2 car)
Garage
2827
Brick wall
Cut out
Property Lines
Driveway
2-4 Car capicity
Property Lines
Legend
- Exterior Lighting
- Trash bins kept behind BW or in garage until Trash day.
Lakewood dr.
S Breakwater Ln
2830


2827
2825



DANGER

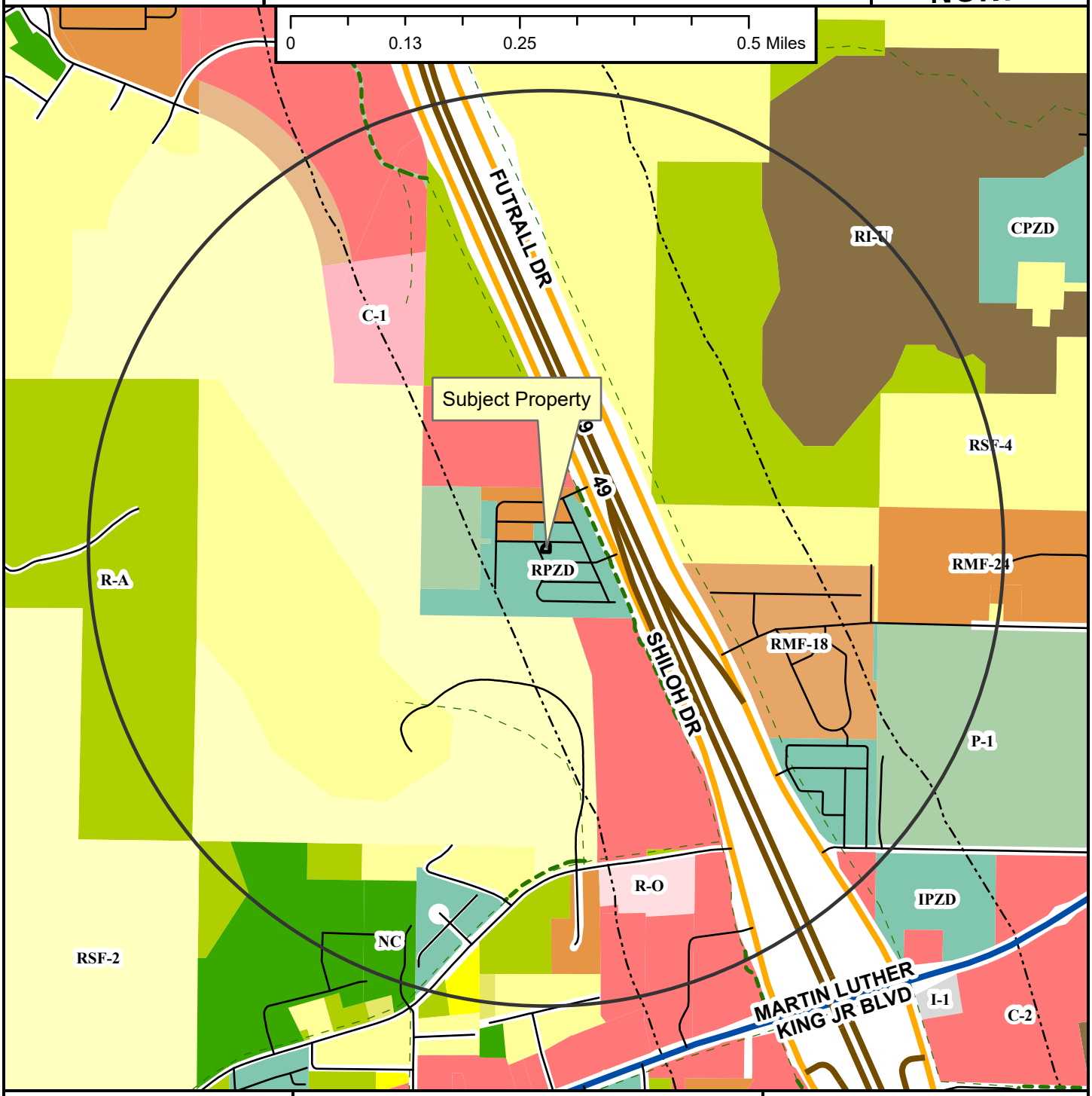

FENCE
LIGHT
REFUSE
UTILITY
BED 2
KITCHEN
FENCE
FENCE
DINING
BED 1
LIVING
PORCH
LIGHT
PARKING
1831 W MITCHELL ST
INTERIOR - EXTERIOR
MITCHELL

CUP-2023-0030

One Mile View

2827 W. LAKEWOOD DR

NORTH



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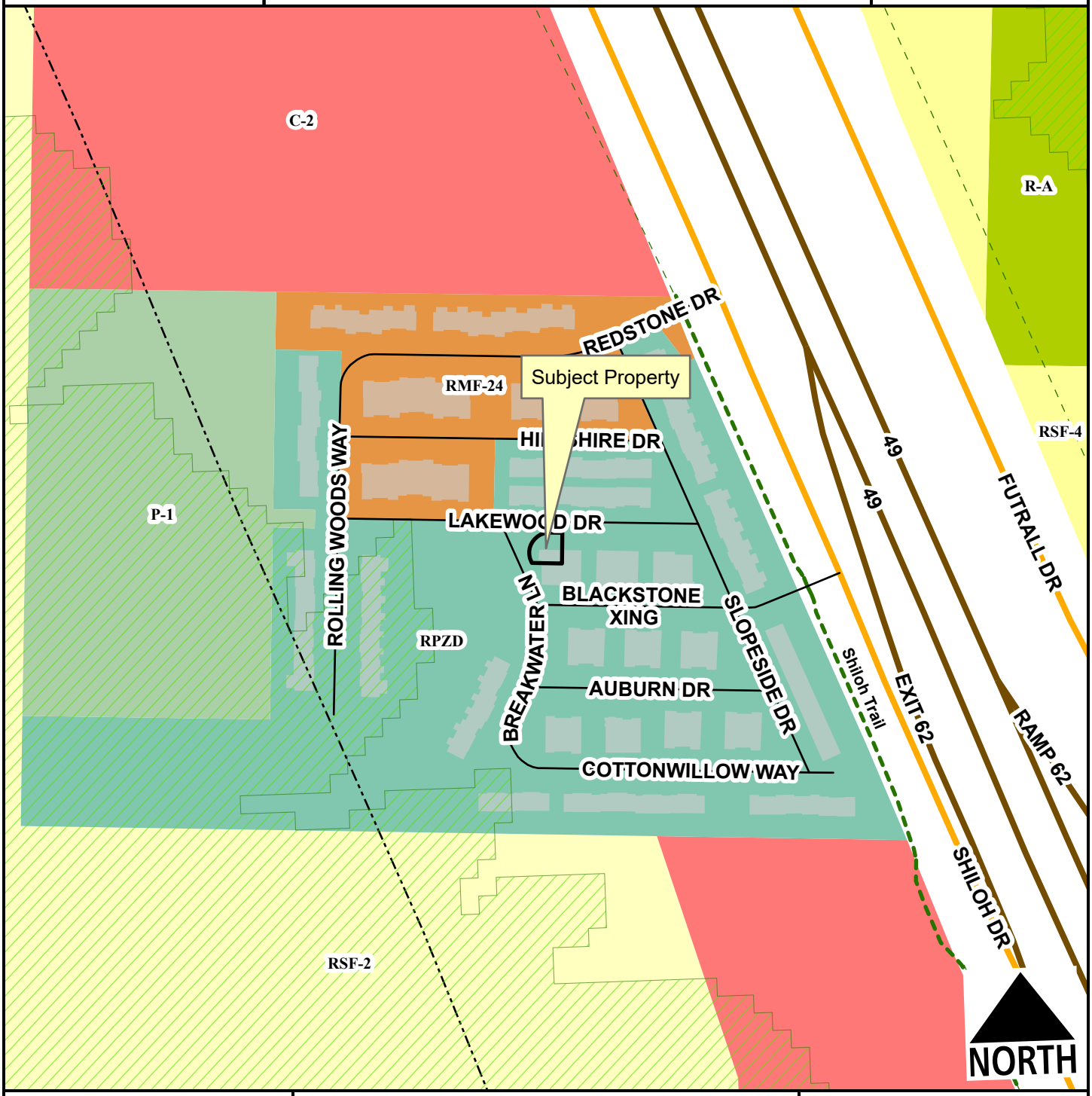
Close Up View

2827 W. LAKEWOOD DR



Neighborhood Link
Freeway/Expressway
Unclassified
Residential Link
Hillside-Hilltop Overlay District
Planning Area
Fayetteville City Limits
Shared-Use Paved Trail
Trail (Proposed)
Design Overlay District

Feet

0 75 150 300 450 600

1:2,400

Residential-Agricultural
RSF-2
RSF-4
RMF-24
C-2
Commercial, Industrial, Residential
P-1

CUP-2023-0030

Current Land Use

2827 W. LAKEWOOD DR

NORTH

- Neighborhood Link
- Freeway/Expressway
- Unclassified
- Residential Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits
- Design Overlay District

Feet

0 112.5 225 450 675 900

1:3,600

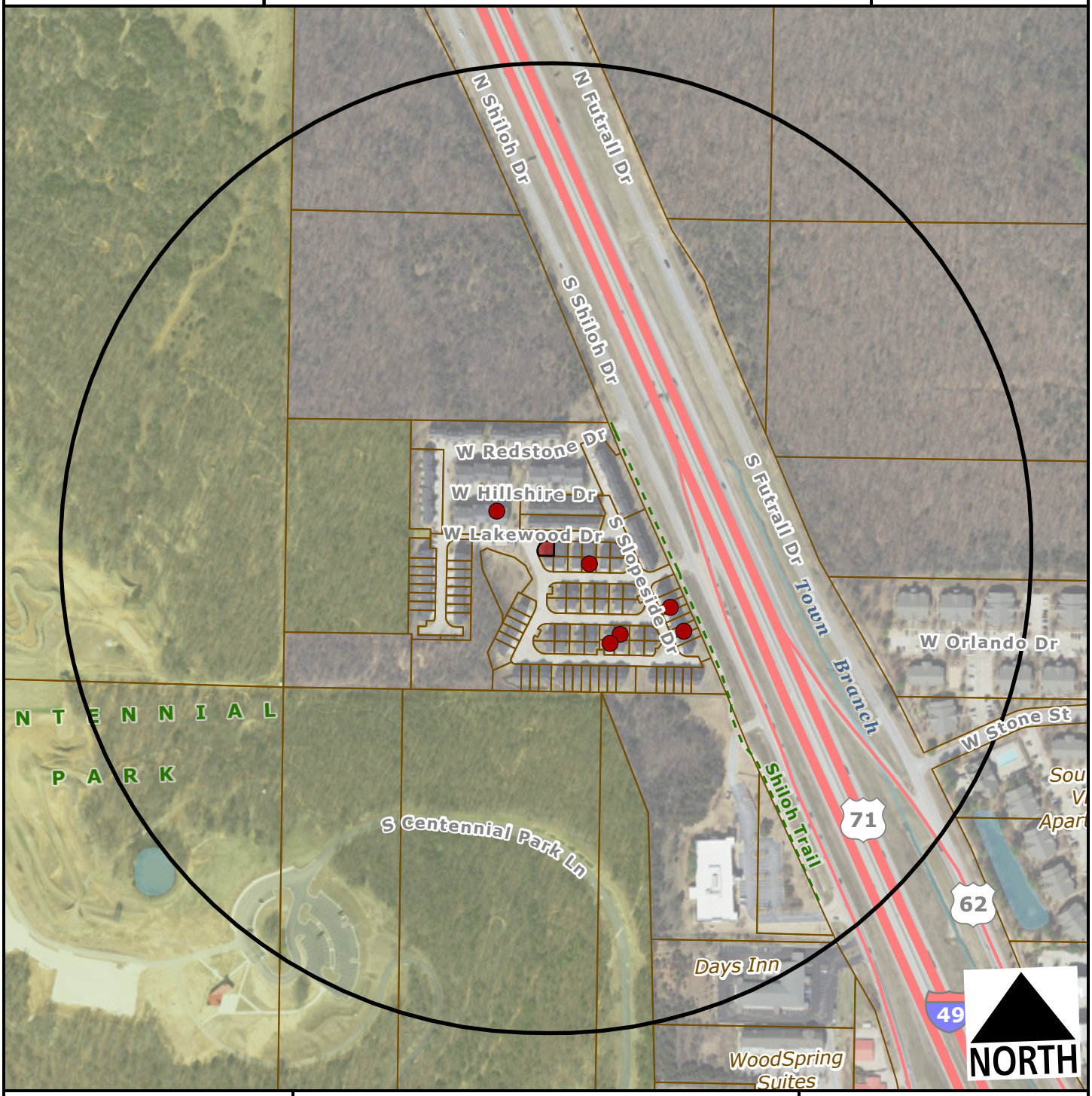
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0030

STRs Within 1/4 Mile

2827 W. LAKEWOOD DR



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Number of STR Licenses

Contributing to 2% density cap	6
NOT contributing to 2% density cap	0
Total	**6**

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: March 27, 2023

SUBJECT: **CUP-2023-0031: Conditional Use Permit (1123 S. TOTTENHAM CT/ THE DVB GROUP LLC, 557):** Submitted by DOMINIQUE BLAKE for property located at 1123 S. TOTTENHAM CT. The property is zoned RPZD, RESIDENTIAL PLANNED ZONING DISTRICT and contains approximately 0.01 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0031** based on the findings in this report.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0031** with conditions, determining:*

- *In favor of compatibility with adjacent properties;*
- *In favor of all other conditions as recommended by staff."*

BACKGROUND:
The subject property is in west Fayetteville south of W. Old Farmington Rd adjacent to the southern portion of Centennial Park. The property represents lot 14B of the RPZD, Residential Planned Zoning District known as the Stadium Centre Cottages. A shopping center of the same name is located directly to the south. The parcel is entirely covered by hydric soils. It is currently developed with a 1,198 square foot townhome constructed in 2008. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1.*

Table 1

Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Undeveloped	NC, Neighborhood Conservation
South	Mixed Offices, Retail, Restaurant	C-1, Neighborhood Commercial
East	Single-Family Residential	R-A Residential Agriculture & RSF-4, Residential Single-Family, 4 Units Per Acre
West	Single-Family Residential	R-A, Residential Agriculture

City Plan 2040 Future Land Use Designation: **Residential Neighborhood**

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term rentals are subject to density limitations, including a 2% citywide cap, and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

Public Comment: Staff has not received any public comment on the proposed request.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0031** based on the findings in this report, with the following conditions.

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible with the neighborhood based on the findings in this report;*

2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in the development code.

3. Per §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within 1 year of conditional use permit approval.

4. Per ordinance, the number of occupants is limited to a maximum of two people per bedroom, plus two, for the entire unit when the property is operated as a short-term rental.

5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.

6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

7. All trash receptacles shall be screened from view of the right-of-way.

8. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.

9. The number of vehicles shall be limited by the underlying zoning.

10. Any signage shall meet the requirements as outlined in §174, Signage.

PLANNING COMMISSION ACTION:	**Required**	**YES**		
Date: March 27, 2023	**❒ Tabled**	**❒ Approved**	**❒ Denied**	
Motion:				
Second:				
Vote:				

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.

2. Decide such questions as are involved in determining whether a conditional use should be granted; and,

3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or

4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

C. A conditional use shall not be granted by the Planning Commission unless and until:

1. A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.

Finding: **The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental in the PZD zoning district.**

2. The applicant shall pay a filing fee as required under Chapter 159 to cover the cost of expenses incurred in connection with processing such application.

Finding: **The applicant has paid the required filing fee.**

3. The Planning Commission shall make the following written findings before a conditional use shall be issued:

(a.) That it is empowered under the section of this chapter described in the application to grant the conditional use; and

Finding: **The Planning Commission is empowered under Unified Development Code §118.01(E)(2) to grant the requested conditional use permit.**

(b.) That the granting of the conditional use will not adversely affect the public interest.

Finding: **Staff finds that granting the requested conditional use is unlikely to negatively affect the public interest, given the applicable business license requirements including a required building safety inspection, and applicable density caps on Type 2 short-term rentals.**

(c.) The Planning Commission shall certify:

(1.) Compliance with the specific rules governing individual conditional uses; and

Finding: **There are specific rules governing Short-Term Rentals, as follows:**

§163.18 - SHORT-TERM RENTALS

A. General Standards.

(1) Residential Zoning Districts. Residential Zoning Districts. Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts: R-A, RSF-.5, RSF-1, RSF-2, RSF-4, RSF-7, RSF-8, RSF-18, RI-12, RI-U, RMF-6, RMF-12, RMF-18, RMF-24, RMF-40, NC. Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district. Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

Finding: **The request is to operate a Type 2 Short-Term Rental, Use Unit 46, in PZD zoning. Use Unit 46 (Type 2) is a conditional use in the PZD zoning district.**

(2) Occupancy. Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

Finding: **Occupancy is limited as described in UDC §163.18(A)(3). As the townhome has two (2) bedrooms, occupancy will likely be limited to six (6) tenants.**

(3) Parking. Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

Finding: **Parking is limited as described in UDC §163.18(C). According to the applicant, the unit has a one-car (1) garage with an additional two or three (2-3) spaces available in the driveway. An exhibit has also been provided showing additional off-street public parking available on the west side of S. Tudor Ave.**

(4) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

Finding: **The application letter suggests the property will comply with the City's regulations for a short-term rental. As a condition of approval, staff recommends a prohibition on special events.**

(5) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

Finding: **The application is for use of the property at 1123 S. Tottenham Ct. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.**

(6) Exceptions. Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

Finding: **Type 2 short-term rentals are subject to a citywide density cap at 2% of total dwelling units, as determined by United States Census Bureau data. Recently released 5-year data from the 2021 list total housing units in Fayetteville at 44,706, which puts the cap at 894 total Type 2 short-term rentals. To date, there are 314 Type 2 short-term rental licenses that are subject to this cap. Hotel and motel uses are not permitted by right in the RPZD, Residential Planned Zoning district so this short-term rental will contribute to the city-wide density cap. Since the request is within a multi-family structure where units are held in separate ownership, no cap applies to the specific structure.**

(7) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

Finding:

(8) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

1) Adequate parking infrastructure;
2) Adequate adjoining or nearby streets for on-street parking;
3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and
4} Prior zoning or code violations.

Finding: **There appears to be adequate parking available to support the use of the property as a short-term rental based on the applicant's submittal. Depending on vehicle size, two or three (2 or 3) vehicles may be parked off-street on the property. While neither S. Tottenham Ct. nor W. Steppingstone Dr. have enough width for on-street parking, there is additional off-street public parking available on the west side of S. Tudor Ave. City business**

licenses show six (6) legally operating type 2 short term rentals with 0.25 miles of the subject property. No prior zoning or code violations were found for the address.

§163.02, AUTHORITY; CONDITIONS; PROCEDURES. (continued)

(2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:

(a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: **There appears to be adequate parking available to support the use of the property as a short-term rental based on the applicant's submittal. Staff notes that both S. Tottenham Ct and W. Steppingstone Dr. are only 22 feet wide, which is not enough width for on-street parking while maintaining consistent two-way traffic. While private ROW extends to W. Sandra St., city Council specifically added a condition to the RPZD ordinance at the 12/19/06 meeting allowing dead-end street. There are sidewalks along W. Steppingstone Dr. but limited pedestrian connectivity outside of the neighborhood.**

(b.) Off-street parking and loading areas where required, with particular attention to ingress and egress, economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

Finding: **The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district. Depending on vehicle size, two or three vehicles may be parked off-street on the property between the garage and driveway.**

(c.) Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading,

Finding: **The applicant proposes to utilize existing residential trash cart service. Staff recommends that the containers should be screened from public view when not at the curb for residential pick-up.**

(d.) Utilities, with reference to locations, availability, and compatibility;

Finding: **Utilities are currently available to the site, and the use as a short-term rental is not anticipated to impact the provision of utilities.**

(e.) Screening and buffering with reference to type, dimensions, and character;

Finding: Staff recommends that residential carts be screened so that they are not visible from the public right-of-way.

(f.) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

Finding: Any proposed signage will be subject to Unified Development Code section 174 – Signs, and all the regulations therein.

(g.) Required yards and other open space; and

Finding: Based on the existing structure permit, the structure is meeting relevant setbacks.

(h.) General compatibility with adjacent properties and other property in the district.

Finding: Additional information is needed to determine compatibility as the application was incomplete.

BUDGET/STAFF IMPACT:
None

Attachments:

- Business Regulations–
  - §118.01 Applicability
- Unified Development Code
  - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
  - RPZD Ordinance Excerpts (The Stadium Centre Cottages)
- Applicant Request Letter
- Building Floor Plans
- The Stadium Centre Cottages Concurrent Plat
- Site Plans
- Additional Parking Exhibit
- Building Elevations
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

118.01 Applicability

(E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.

(1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.

(2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.

(3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:

(a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
(b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
(c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.

(4) A separate business license shall be required for each dwelling unit used as a short-term rental.

(5) Any change in ownership requires a new or amended business license.

(6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.

(7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:

(a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
(b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
(c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
(d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
(e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
(f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
(g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.

(8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).

(11) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:

(a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
(b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
(c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.

(10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate compliance with

this section. For the purposes of these regulations, 'availability' means that the owner or agent is accessible by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.

(11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.

(12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.

(13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.

(14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.

(15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).

(16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 2% of all dwelling units in the Fayetteville city limits may be utilized as Type 2 rentals. Total dwelling units are determined from current United States Census Bureau and/or American Community Survey numbers, whichever number is higher. A conditional use permit may not permit:

(a) More Type 2 short-term rentals than what is allowed by the city-wide density cap. Type 2 short-term rentals in commercial and mixed-use zoning districts where hotel/motels are permitted by right shall not contribute to the city-wide density cap.
(b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
(c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
(d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.

(17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.

(20) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

(Ord. No. 6427 , §§1(Exh. A), 2, 4-20-21; Ord. No. 6505 , §1(Exh. A), 11-16-21; Ord. No. 6521 , §§1, 2, 1-18-22; Ord. No. 6537 , §1(Exh. A), 2-15-22)

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

(A) *Residential Zoning Districts.* Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts:

1) R-A
2) RSF-.5
3) RSF-1
4) RSF-2
5) RSF-4

6) RSF-7
7) RSF-8
8) RSF-18
9) RI-12
10) RI-U
11) RMF-6
12) RMF-12
13) RMF-18
14) RMF-24
15) RMF-40
16) NC

Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district.

Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

(B) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

(C) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

(D) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

(E) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

(F) *Exceptions.* Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

(G) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

(H) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

1) Adequate parking infrastructure;

2) Adequate adjoining or nearby streets for on-street parking;

3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and

4) Prior zoning or code violations

(Ord. No. 6427 , §§1(Exh. E), 2, 4-20-21; Ord. No. 6505 , §2(Exh. B), 11-16-21; Ord. No. 6537 , §2(Exh. B), 2-15-22)

EXHIBIT "C"
R-PZD 06-2212
(Page 1 of 3)

Conditions of Approval

1. City Council determination of street improvements. Staff recommends the following: The developer shall improve Old Farmington Rd. to include an 18' wide street section from centerline with curb, gutter, storm drains and a 6-foot sidewalk at the Master Street Plan right-of-way and street lights every 300' along the property frontage. Improvements 14' from centerline for Sandra Street with curb, gutter, storm drains and a 4-foot sidewalk at the Master Street Plan right-of-way and street lights every 300' shall be installed by the developer. Additionally, to ensure safe traffic movements from Old Farmington Rd. onto One Mile Rd., staff recommends improvements to the southwest corner of said streets to improve the turning radius. These improvements shall be coordinated with the Engineering Division. The applicant shall conduct a traffic study at the intersection of One-Mile Road and Old Farmington Road to assess the need for three-way stop signage, coordinating this process with the City Engineer.

CITY COUNCIL DETERMINED IN FAVOR OF THIS CONDITION (12-19-06).

2. The City Council accepts the Planned Zoning District Plans as submitted for review on 12-19-06, without a street connection to Sandra Street. If the developer can satisfy the Fire Department and Solid Waste Division with adequate turn-around and access, the "T" intersection shall be permitted. Should either division not be satisfied, a standard cul-de-sac shall be constructed, removing Lot #11.

CITY COUNCIL ADDED THIS CONDITION (12-19-06).

3. Units 1-10 along Old Farmington Rd. shall be front facing with access to garages only permitted from Street "A". Buildings shall be constructed to be consistent with the photos and concepts depicted in the booklet as specified. Building permits will be based upon the submitted photos.

4. Private streets/alley/drives, sidewalks, greenspace and detention ponds shall be the responsibility of the property owner or property owner's association to maintain according to city standards. Covenants shall provide that in the event the private streets are not maintained as required, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. Said covenants regarding maintenance of private streets shall not be amended and shall not terminate without approval of the City Council (§166.06 (K.10.b.vii)

5. Staff is recommending approval of the submitted Tree Preservation Plan associated with RPZD 06-2196 with the following conditions of approval:

a. Please coordinate the installation of the sidewalk with the Urban Forester and the Sidewalk Administrator to save as many trees along Old Farmington Road as possible.
b. Between Stadium Centre Commercial and these cottages, 111 (2) inch caliper large species trees are required for mitigation. Both properties share the same owner so on-site mitigation is allowed.
c. By staff's calculations 61 (2) inch caliper large species trees are planned for the cottage development. This leaves a remainder of 50 trees or $12,500 to be paid into the Tree Escrow Account. This payment will be due before the issuance of the first building permit.
d. Please include a revised mitigation chart that calculates all mitigation required and what is proposed for on-site planting. This should be separated by Stadium Center Commercial and Stadium Center Cottages. Canopy calculations have changed since the last submittal and now 4 (2) inch caliper large species tree are required for mitigation of the cottages.
e. All on-site mitigation trees shall be planted before the certificate of occupancy for the cottages they are associated with. These trees can not be located within any utility easements.
f. A 3-year maintenance and monitoring bond, letter of credit, or check in the amount of $19,750 shall be submitted to the City before the certificate of occupancy is granted on the last cottages.

6. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements.

7. Solid fences shall not be permitted along Old Farmington Road.

8. A 6' wood board, privacy fence shall be required to be constructed along the east property line of Lots 11 and 15 (south of Sandra Street), in addition to the proposed large species trees as offered by the applicant.

9. One (1) large species tree shall be planted in between each of the driveways and every 30 linear feet along Old Farmington Road where existing trees cannot be preserved, and shall be depicted on the landscape plan.

10. The location and construction of the sidewalk along Old Farmington Road shall be coordinated with the Urban Forester and Sidewalk Administrator at the time of construction.

11. Parks fees in the amount of $9,435.00 are due, prior to signing the final plat.

12. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code, and shall be subject to signage requirements for residential single-family development.

13. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of

approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.

14. Prior to building permit, a cost estimate for all required landscaping and sidewalks is to be submitted for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.

15. All permits to begin construction shall be obtained within one year from the date of approval; a one year extension may be obtained, pursuant to Chapter 166 of the Unified Development Code. A final plat shall be required in accordance with City of Fayetteville requirements.

Standard Conditions of Approval:

16. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).

17. Trash enclosures shall be screened on three sides with materials compatible with the surrounding structures, with access not visible from the street. Architectural elevations for these structures shall be submitted for review prior to issuance of a building permit.

18. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.

19. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.

20. All exterior lighting is required to comply with the City's lighting ordinance. A lighting plan and cut-sheets of the proposed exterior light fixtures shall be required to be approved by Planning Staff prior to building permit.

21. Prior to the issuance of a building permit the following is required:
    a. Grading and drainage permits
    b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
    c. Separate easement plat that shall include the tree preservation area.
    d. Project Disk with all final revisions

The following bulk and area regulations are proposed by the applicant:

(A) *Proposed Uses.*

Permitted uses

Use Unit 1	City-wide uses by right
Use Unit 8	Single-family dwellings
Use Unit 9	Two-family dwellings

Conditional Uses

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and Recreational Facilities
Unit 24	Home Occupations

(B) *Density*

Units per acre	6.94

(C) *Bulk and area regulations.*

Lot minimum width	40 ft.
Lot area minimum	1,900 sq. ft.
Land area per dwelling unit	1,900 sq. ft.

(D) *Building Setbacks*

Lot #	Front (Street A)	Front (Street B)	Front (Old Farmington Rd.)	Side w/o common Wall	Side w/ common wall	Rear
1-10	10'	NA	15'	5'	NA	NA
11	10'	13	NA	0'	NA'	8'
12	NA	10'	NA	5'	0'	4'
13	NA'	10'	NA	5'	0'	2'
14	10'	10'	NA	5'	0'	4'

(E) *Height. Maximum 35 Feet*

(F) *Building area.* 60% of the Lot Area

Access and Parking: Access to the site is provided from Sandra Street, Old Farmington Road and a drive aisle stub-out from the developing commercial center to the south, Stadium Centre Phase I. A one-way private street/alley is proposed with ingress from Sandra St. and egress onto Old Farmington Rd. and the commercial development. The private street now designated as one-way functions primarily as an alley, providing access to each of the 17 proposed structures.

Understanding the proposal to provide one-way west bound ingress/egress, which in effect limits the ability to cut-through Sandra St., but connects neighborhoods, is supported by staff as a waiver of design standards that require two public streets to be connected by a public street. Staff finds that this configuration, with traffic only permitted to exit north onto Old Farmington Rd., or south into the commercial development would provide a safe and convenient connection for residents. The one-way street would prohibit traffic from traversing the existing Sandra St. as a cut-through. The applicants are currently proposing 12' wide, individual driveways with garages for each lot, along with parallel parking along the proposed street.

Phasing: The applicant proposes to construct this development in one phase, under the typical ordinance requirements for a preliminary plat.

Water & Sewer: Water and sewer lines would be extended to serve the development.

Adjacent Master Street Plan Streets: Old Farmington Road (Collector Street)
Sandra Street (Local Street)

Street Improvements: Staff recommends the following improvements:
- Improve Old Farmington Rd. to include a 18' wide street section from centerline with curb, gutter, storm drains and a 6-foot sidewalk at the Master Street Plan right-of-way and street lights every 300'. Improve Sandra St. along the property boundary 14' from centerline with curb, gutter, storm drains and a 4-foot sidewalk at the Master Street Plan right-of-way and street lights every 300'. Additionally, to ensure safe traffic movements from Old Farmington Rd. onto One Mile Rd., staff recommends improvements to the southwest corner of said streets to make a more usable turning radius. These improvements shall be coordinated with the Engineering Division. (See conceptual improvements submitted by applicant)

Parks: On April 4, 2005 the Park and Recreation Advisory Board recommended accepting money in-lieu to satisfy the park land dedication requirements for this development. Parks fees are due in the amount of $9,435.00, prior to signing the final plat.

Tree Preservation:

Existing Canopy:	2.75%
Preserved Canopy:	1.57%
Required Canopy:	2.75%
	Mitigation: Required

Public Comment: Staff has received numerous comments from adjacent property owners objecting to the project, citing such issues as increased traffic on Sandra Street and Old Farmington Road, noise, safety and the addition of multi-family units.

PUBLIC COMMENT/CONCERNS AT 9/25/06 PC MEETING:

- Increased traffic
- Unimproved streets
- Vehicular speeds
- Density
- Decrease in property values

1. Request Letter

Complete written description of this request (what is proposed by the applicant) to include:

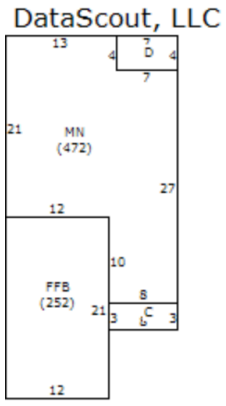
(a) Building size in square feet; existing and proposed

Occupancy	Story	Construction	Total Liv	Grade	Age	Year Built	Condition	Beds
Townhome	ONE+	Frame Siding Std.	1196	4+15	15	2008	Average	N/A

(b) Color elevations of all exterior sides of the structure

Occupancy	Story	Construction	Total Liv	Grade	Age	Year Built	Condition	Beds
Townhome	ONE+	Frame Siding Std.	1196	4+15	15	2008	Average	N/A

Exterior Wall:	VINYL	**Plumbing:**	**Full:** 2 **Half:** 1
Foundation:	Slab	**Fireplace:**	**Type:** N/A **Qty:** 0
Floor Struct:	ElevSlab	**Heat/Cool:**	Central
Floor Cover:	Carpet & Tile	**Basement:**	N/A
Insulation:	Ceilings Walls	**Basement Area:**	N/A
Roof Cover:	Fiberglass Shingle	**Year Remodeled:**	N/A
Roof type:	Hip	**Style:**	N/A



(c) Number of off-street parking spaces to be provided / number required

- 8

(d) Outdoor lighting

- Illuminated walk ways, balconies, garage area, number signage and on all sides of exterior of property.

(e) Noise

- All residential zone noise ordinances are enforced as follows— 11:00pm-7:00am / max noise level 55dB(A) & 7:00am-11:00pm max noise level 60dB(A)

(f) Screening or buffering from adjacent properties

- I could not find an abundance of information in relation to Fayetteville, Ar's regulations on screening and buffering from adjacent preoperties. However, based on the developments setup, all properties are divided and buffered by retention walls, roadways, grass land and fencing, The screening areas on this property are provided for the purpose of decreasing friction and maintaining the integrity of all neighboring and adjacent properties .

(g) Trash and refuse service (with particular reference to visibility from the street and adjacent properties)

- Applicable property currently uses and plans to maintain sanitation services through the city of Fayetteville.

(h) Ingress and egress to the property; traffic impacts

- Applicable property has accessible roadway to enter/exit the property. No occupant shall block or impede ingress or egress over the street on which the property is located.

(i) A response discussing the general compatibility of the proposed

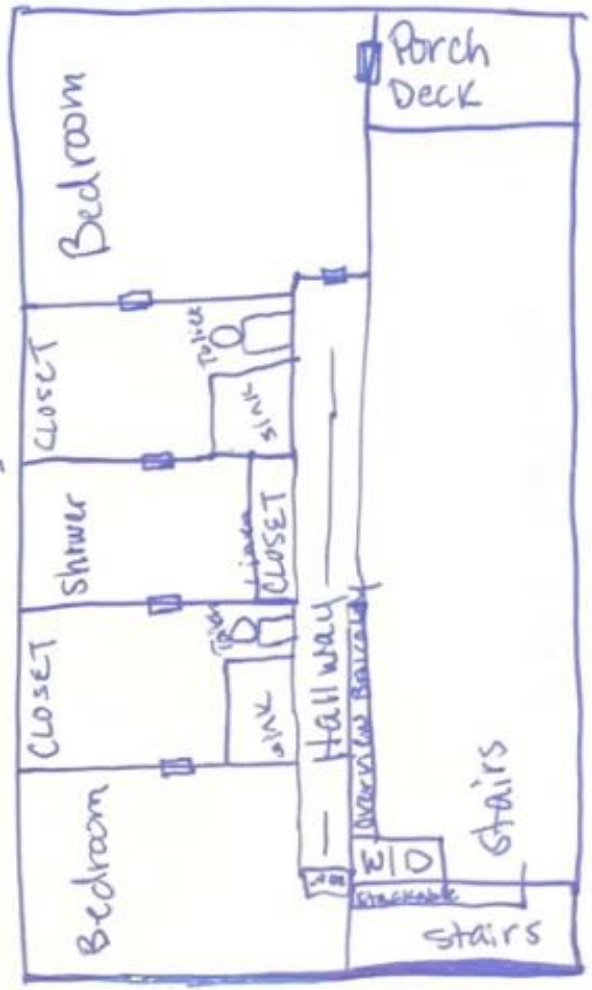
use with adjacent properties and other property in the neighborhood

- Currently out of all 17 properties, I am the only individual that soley owns and uses 1123 Tottenham as my primary residence. Based on the current owner to tenant ratio, I would not project or foresee it to be a conflict of interest to use my current property as an STR.

Tottenham Building Elevations

1st Floor:
- 1 half-bath
- 1 car garage
- 2 coverd porch
- Open LR + Dining Room
- 1 Full sized kichen

2nd Floor:
- 2 "master" Bedrooms
- 2 half Bathrooms
- 1 shower
- 1 Linen Closet
- 1 Washer | Dryer Room



Phasing does not apply
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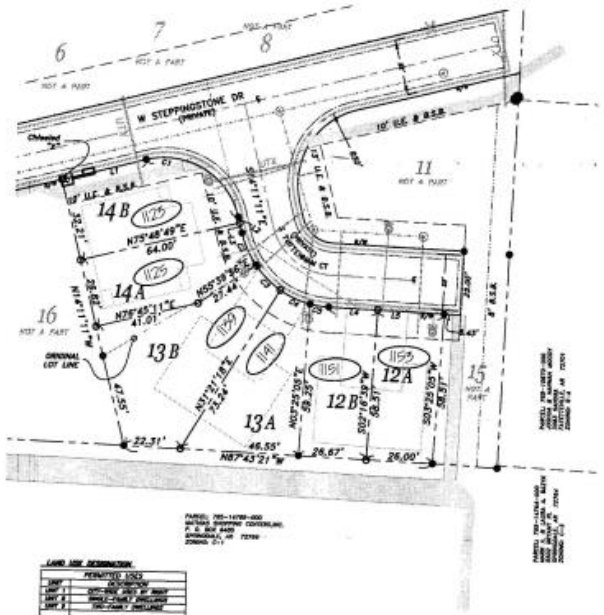
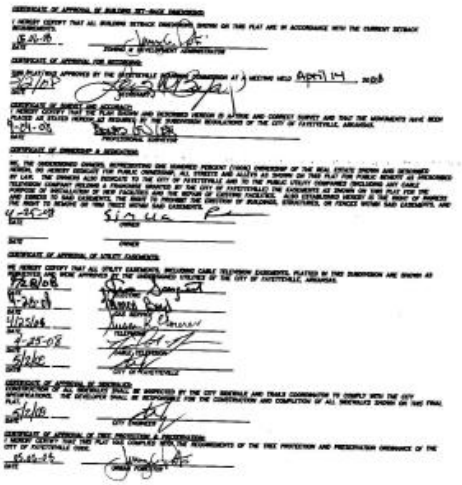
MAC & BAZ

079190





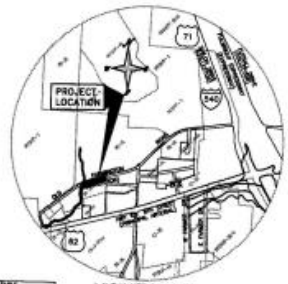
CERTIFICATE OF APPROVAL OF PARK LAND
DEDICATION OR MONEY IN-LIEU:

I HEREBY CERTIFY THAT THIS FINAL PLAT COMPLIES WITH SECTION 166.03(K) WITH THE OWNER(S) DEDICATION OF ACRES OR PAYING IN-LIEU $ 3,400.00

WARRANTY DEED FOR PARK LAND RECORDED AS FOLLOWS:
BOOK #: PAGE #:

4/30/08
DATE

PARKS & RECREATION REPRESENTATIVE



VICINITY MAP
N.T.S.

LEGEND

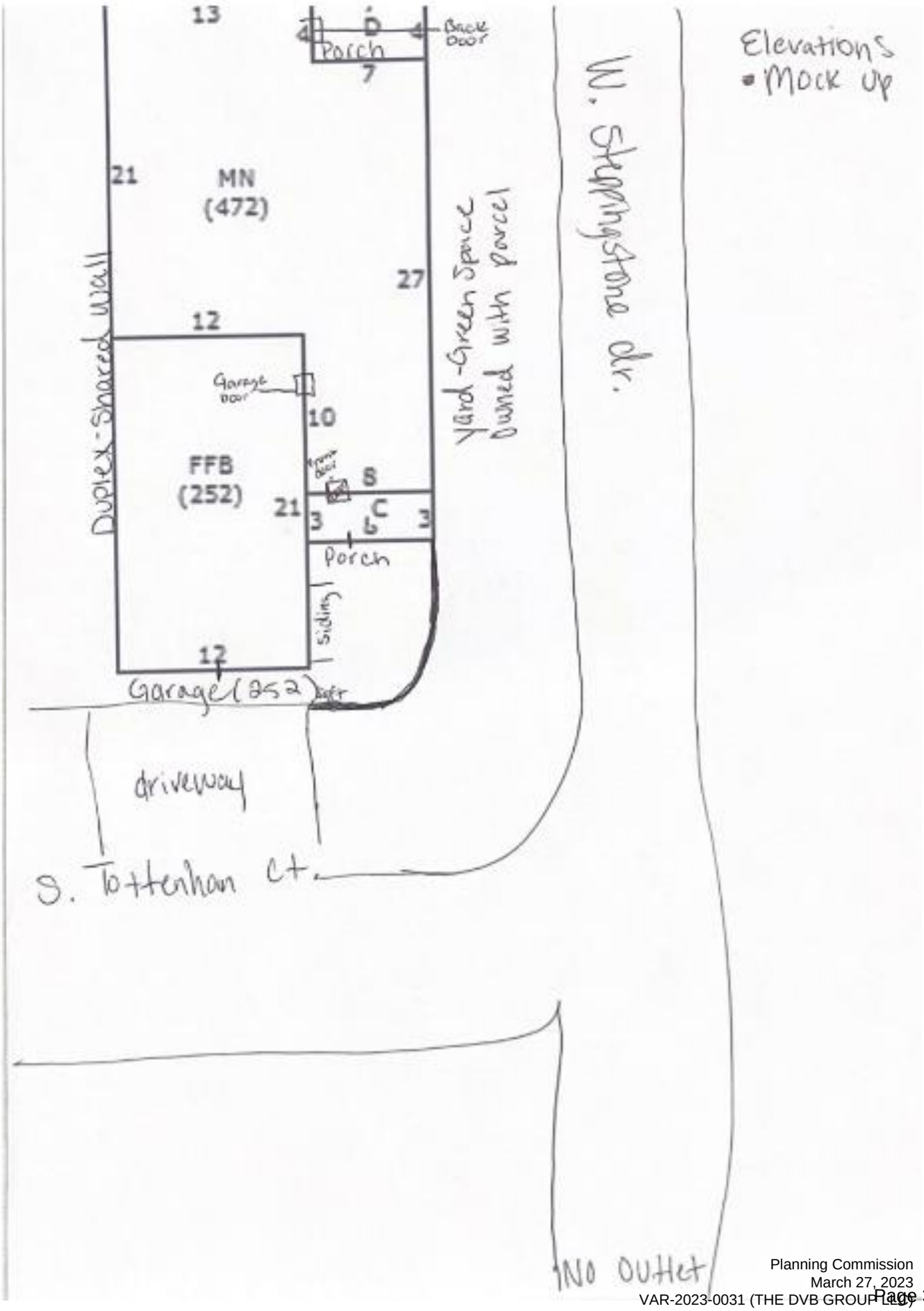
CONCURRENT PLAT
THE STADIUM CENTRE COTTAGES
LOTS 12-14

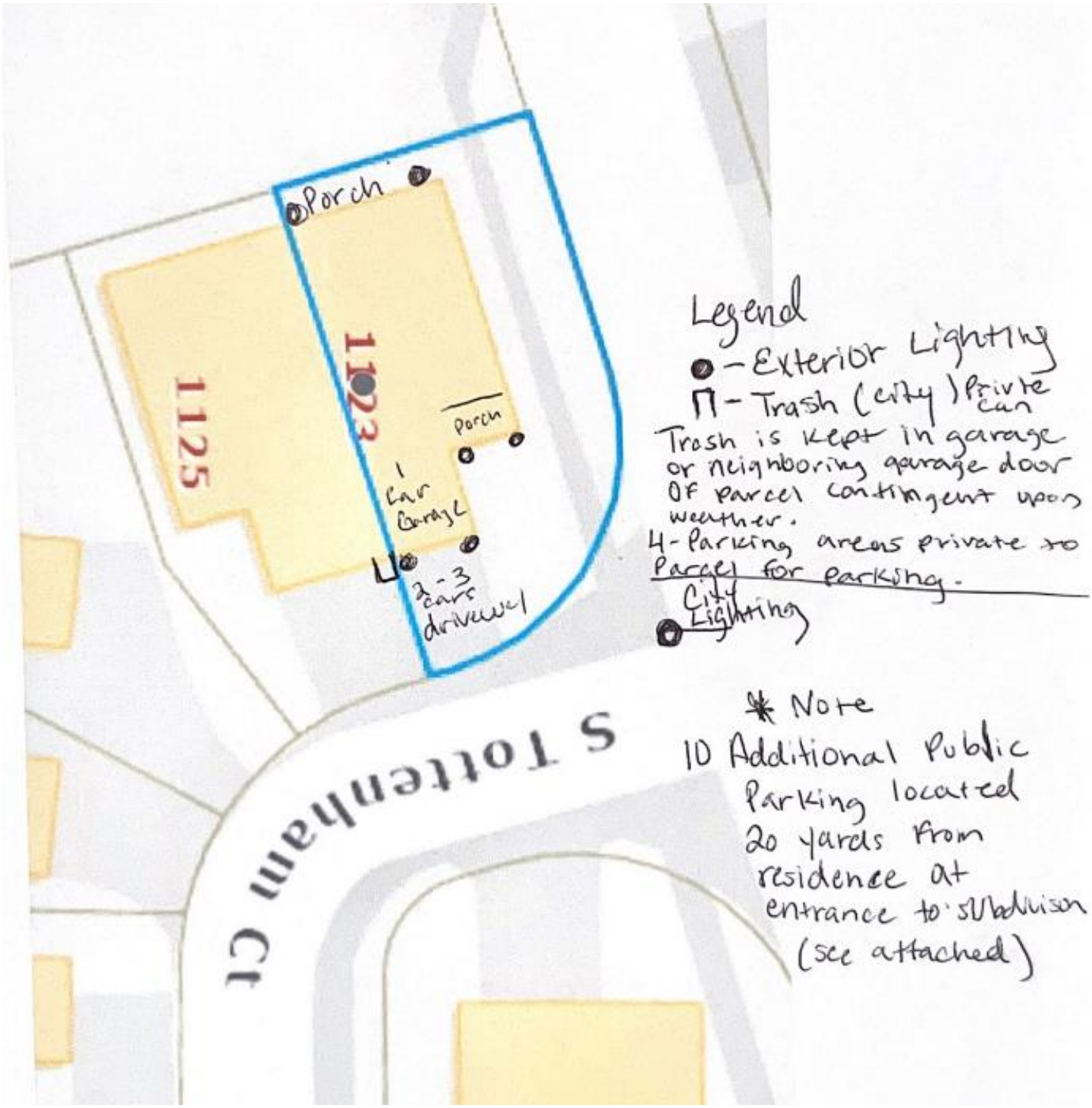
SHEET	OF	PAGES
1	=	1

H2 ENGINEERING, INC.
2750 MILLENNIUM DRIVE, SUITE 1
FAYETTEVILLE, ARKANSAS 72703
PHONE: (479) 582-4234
FAX: (479) 582-8264

Doc ID: 032261740001 Type: REL
Recorded: 05/06/2008 at 10:42:01 AM
Fee Amt: Page 1 of 1
Washington County, AR
Bette Stance Circuit Clerk
File 023A-00000336

P:\Land Projects 2006\06-021\DWG\06-021 REPLAT 12-14.dwg, REPLAT, 4/23/2008 4:45:07 PM, larry


13
4
D
4
Back door
Porch
7
Elevations
• Mock up
W. Steppingstone dr.
21
MN
(472)
27
Yard-Green Space
Owned with parcel
Duplex-Shared wall
12
Garage door
10
FFB
(252)
8
21
3
C
3
Porch
Siding
12
Garage (252)
driveway
S. Tottenham Ct.
No Outlet



Legend
● - Exterior Lighting
Π - Trash (city) Private can
Trash is kept in garage or neighboring garage door of parcel contingent upon weather.
4 - Parking areas private to Parcel for parking.
● City Lighting

* Note
10 Additional Public Parking located 20 yards from residence at entrance to subdivision (see attached)

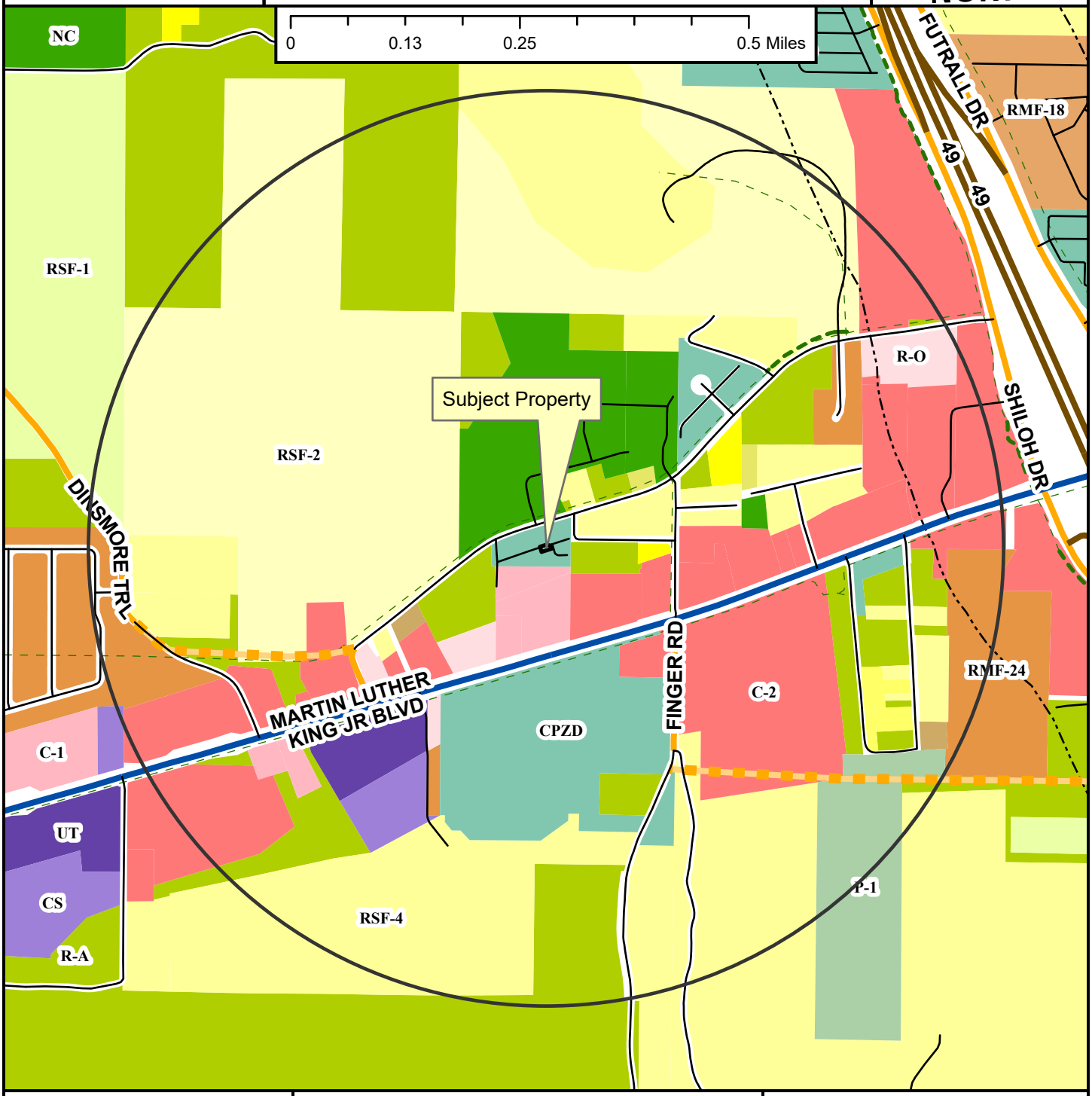
ADDITIONAL PARKING

CUP-2023-0031

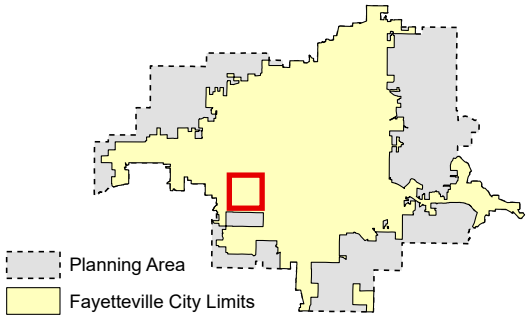
One Mile View

1123 S. TOTTENHAM CT.

NORTH



- Neighborhood Link
- Regional Link - High Activity
- Freeway/Expressway
- Unclassified
- Alley
- Residential Link
- Planned Neighborhood Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Fayetteville City Limits
- Planning Area



Zoning

RESIDENTIAL SINGLE-FAMILY
NS-G, RI-U, RI-12, NS-L, Residential-Agricultural, RSF-.5, RSF-1, RSF-2, RSF-4, RSF-7, RSF-8, RSF-18

RESIDENTIAL MULTI-FAMILY
RMF-6, RMF-12, RMF-18, RMF-24, RMF-40

INDUSTRIAL
I-1 Heavy Commercial and Light Industrial, I-2 General Industrial

EXTRACTION
E-1

COMMERCIAL
Residential-Office, C-1, C-2, C-3

FORM BASED DISTRICTS
Downtown Core, Urban Thoroughfare, Main Street Center, Downtown General, Community Services, Neighborhood Services, Neighborhood Conservation

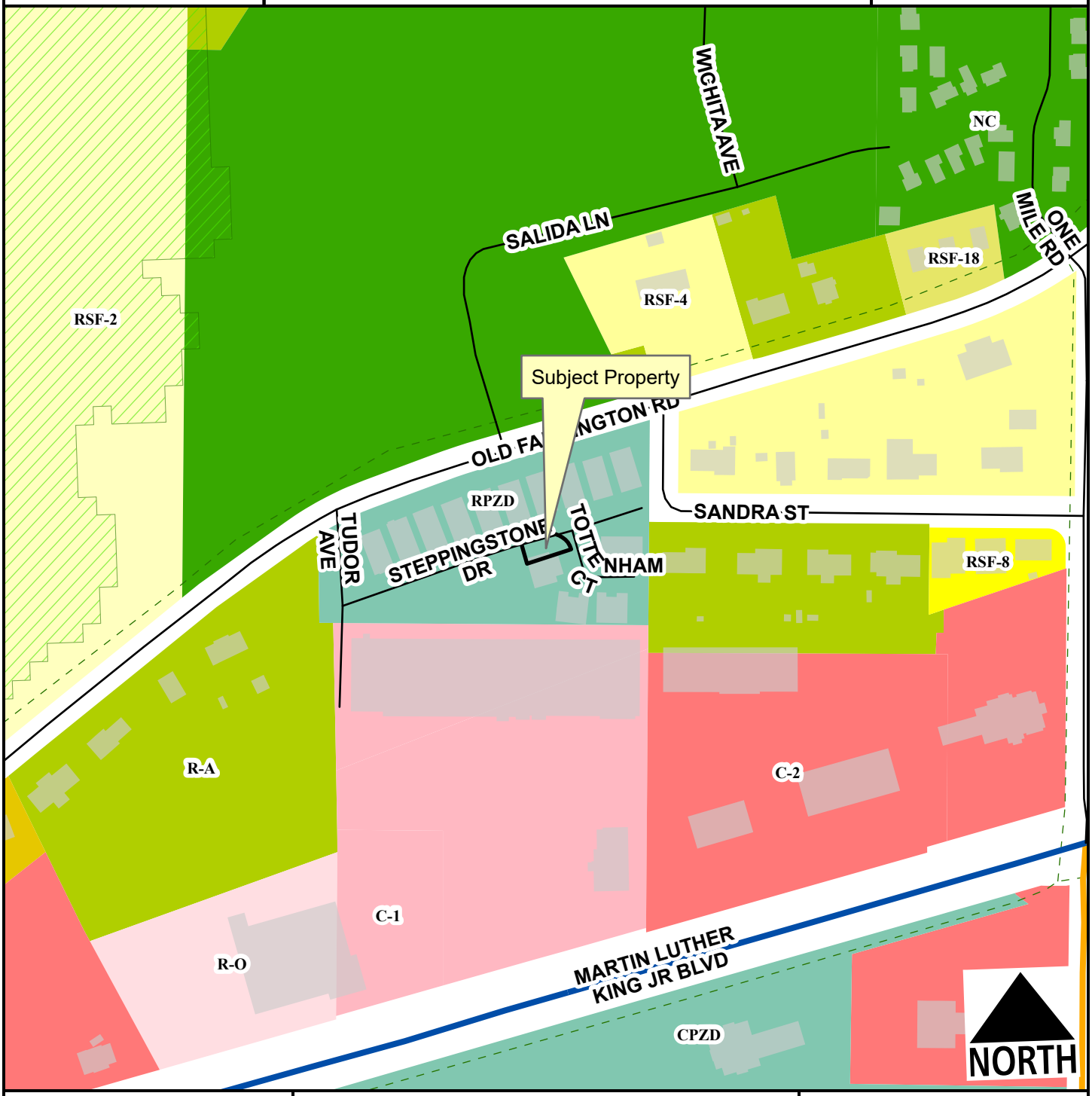
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

CUP-2023-0031

Close Up View

1123 S. TOTTENHAM CT.



- Neighborhood Link
- Regional Link - High Activity
- Unclassified
- Alley
- Residential Link
- Hillside-Hilltop Overlay District
- Planning Area
- Fayetteville City Limits
- Trail (Proposed)

Feet

0 75 150 300 450 600

1:2,400

- Residential-Agricultural
- RSF-2
- RSF-4
- RSF-8
- RSF-18
- RI-12
- Residential-Office
- C-1
- C-2
- Neighborhood Conservation
- Commercial, Industrial, Residential

CUP-2023-0031

Current Land Use

1123 S. TOTTENHAM CT.

NORTH

- Neighborhood Link
- Regional Link - High Activity
- Unclassified
- Alley
- Residential Link
- Planned Neighborhood Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits

Feet

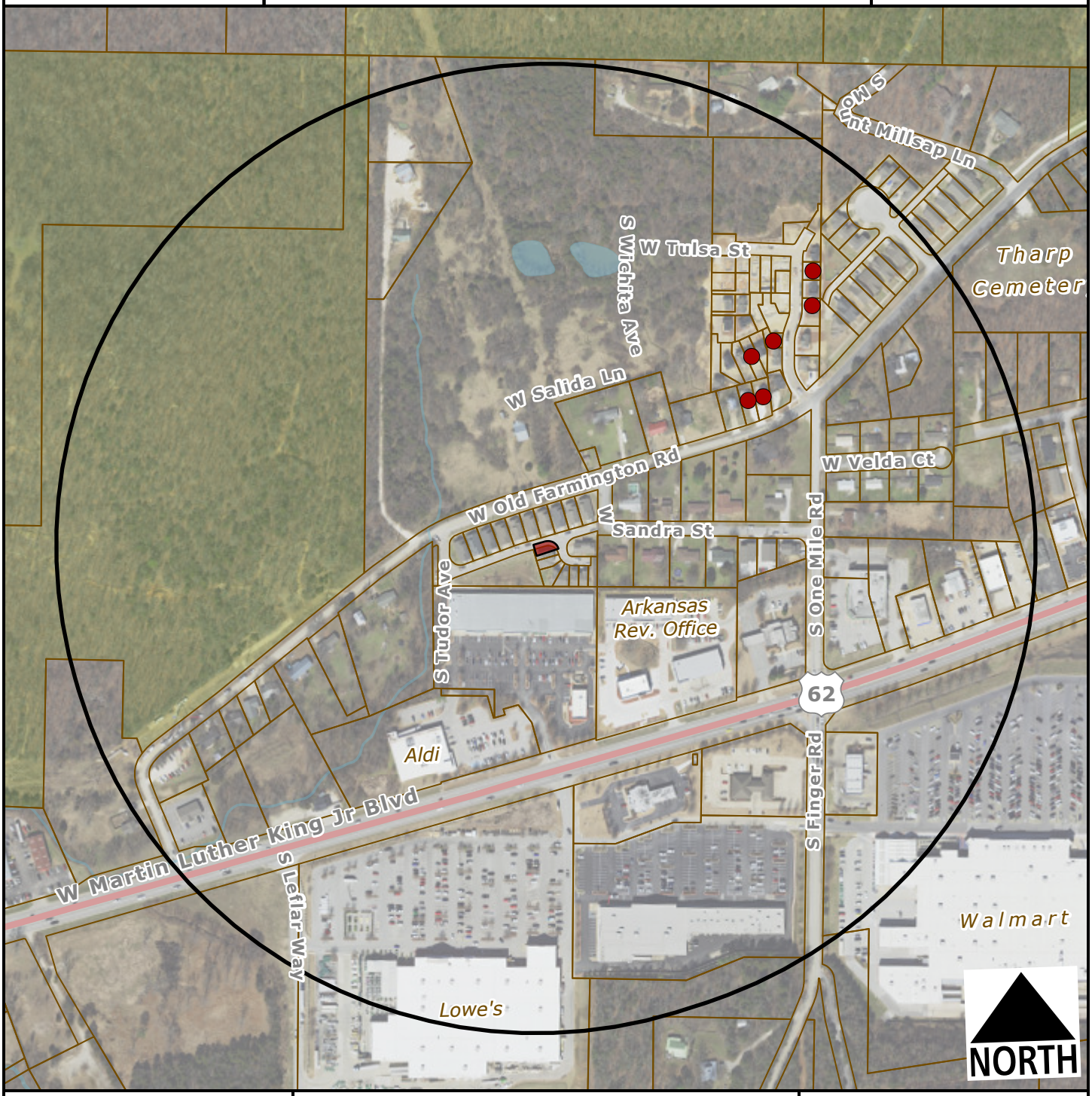
0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0031	1123 S. TOTTENHAM CT.	
STRs Within 1/4 Mile		



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Number of STR Licenses

Contributing to 2% density cap	6
NOT contributing to 2% density cap	0
Total	**6**

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: March 27, 2023

SUBJECT: **CUP-2023-0033: Conditional Use Permit (614 W LAFAYETTE ST/ TONYMON, 483):** Submitted by BROKEN RD VENTURES for property located at 614 W. LAFAYETTE ST. The property is zoned RMF-40, RESIDENTIAL MULTI-FAMILY, FORTY UNITS PER ACRE and contains approximately 0.10 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0033** based on the findings in this report.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0033 with conditions, determining:***

- *In favor of compatibility with adjacent properties;*
- *In favor of all other conditions as recommended by staff."*

BACKGROUND:
The subject property is in central Fayetteville approximately 400 feet east of the University of Arkansas' eastern edge (1/4 mile east of Old Main). The parcel is zoned RMF-40, Residential Multi-Family, Forty (40) Units Per Acre. It is currently constructed with a single-family structure originally built in 1946 with a recent addition on the second floor completed in 2021. Portions of the parcel's edges have slopes above 15% but no other overlay districts or natural features apply. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1.*

Table 1

Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Parking Lot / Single-Family Residential	RMF, Residential Multi-Family, 40 Units per Acre
South	Condominiums / Single-Family Residential	RMF, Residential Multi-Family, 40 Units per Acre
East	Apartments	RMF, Residential Multi-Family, 40 Units per Acre
West	Two-family Residential	RMF, Residential Multi-Family, 40 Units per Acre

City Plan 2040 Future Land Use Designation: **City Neighborhood**

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term rentals are subject to density limitations, including a 2% citywide cap, and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

Public Comment: Staff has received two comments from the public in support of the proposed short-term rental, citing the care taken by the owners in restoring the historic property and proximity to walkable downtown.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0033** based on the findings in this report, with the following conditions.

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible with the neighborhood based on the findings in this report;*

2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in the development code.

3. Per §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within 1 year of conditional use permit approval.

4. Per ordinance, the number of occupants is limited to a maximum of two people per bedroom, plus two, for the entire unit when the property is operated as a short-term rental.

5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.

6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

7. All trash receptacles shall be screened from view of the right-of-way.

8. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.

9. Any signage shall meet the requirements as outlined in §174, Signage.

PLANNING COMMISSION ACTION: Required YES

Date: March 27, 2023 ❒ **Tabled** ❒ **Approved** ❒ **Denied**

Motion:

Second:

Vote:

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.

2. Decide such questions as are involved in determining whether a conditional use should be granted; and,

3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or

4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

C. A conditional use shall not be granted by the Planning Commission unless and until:

1. A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.

Finding: **The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental in the RMF-40 zoning district.**

2. The applicant shall pay a filing fee as required under Chapter 159 to cover the cost of expenses incurred in connection with processing such application.

Finding: **The applicant has paid the required filing fee.**

3. The Planning Commission shall make the following written findings before a conditional use shall be issued:

(a.) That it is empowered under the section of this chapter described in the application to grant the conditional use; and

Finding: **The Planning Commission is empowered under Unified Development Code §118.01(E)(2) to grant the requested conditional use permit.**

(b.) That the granting of the conditional use will not adversely affect the public interest.

Finding: **Staff finds that granting the requested conditional use is unlikely to negatively affect the public interest, given the applicable business license requirements including a required building safety inspection, and applicable density caps on Type 2 short-term rentals.**

(c.) The Planning Commission shall certify:

(1.) Compliance with the specific rules governing individual conditional uses; and

Finding: There are specific rules governing Short-Term Rentals, as follows:

§163.18 - SHORT-TERM RENTALS

A. General Standards.

(1) Residential Zoning Districts. Residential Zoning Districts. Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts: R-A, RSF-.5, RSF-1, RSF-2, RSF-4, RSF-7, RSF-8, RSF-18, RI-12, RI-U, RMF-6, RMF-12, RMF-18, RMF-24, RMF-40, NC. Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district. Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

Finding: The request is to operate a Type 2 Short-Term Rental, Use Unit 46, in RMF-40 zoning. Type 2 STRs require a conditional use permit in the RMF-40 zoning district.

(2) Occupancy. Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

Finding: Occupancy is limited as described in UDC §163.18(B). Occupancy limitations are confirmed by the applicant during licensing. Since this townhome contains five (5) bedrooms, occupancy will likely be limited to a maximum of twelve (12) guests.

(3) Parking. Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

Finding: Parking is limited as described in UDC §163.18(C). According to the applicant, the unit has two (2) off-street parking spaces available in the back of the property accessible via driveway. On-street parking is also available along W. Lafayette St west of the driveway.

(4) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

Finding: The application letter suggests the property will comply with the City's regulations for a short-term rental. As a condition of approval, staff recommends a prohibition on special events.

(5) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

Finding: **The application is for use of the property at 614 W. Lafayette St. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.**

(6) Exceptions. Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

Finding: **Type 2 short-term rentals are subject to a citywide density cap at 2% of total dwelling units, as determined by United States Census Bureau data. Recently released 5-year data from the 2021 list total housing units in Fayetteville at 44,706, which puts the cap at 894 total Type 2 short-term rentals. To date, there are 314 Type 2 short-term rental licenses that are subject to this cap. Hotel and motel uses are not permitted by right in the RMF-40, Residential Multi-Family, Forty (40) Units per Acre zoning district so this short-term rental will contribute to the city-wide density cap.**

(7) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

Finding: **This short-term rental would be subject to all regulations in City Code §118.01 that apply to Type 2 short-term rentals in residential zoning districts. Applicable business licensing requirements will be reviewed by staff and confirmed by the applicant at the time of licensing.**

(8) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

1) Adequate parking infrastructure;
2) Adequate adjoining or nearby streets for on-street parking;
3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and
4} Prior zoning or code violations.

Finding: **There appears to be adequate parking available to support the use of the property as a short-term rental based on the applicant's submittal. A total of two (2) spaces are available at the rear of the property and a maximum of twelve (12) guests are permitted. The property also has frontage along a portion of W. Lafayette St. that is wide enough to support on-street parking. City business license records indicate that twenty-four (24) other units within a quarter-mile radius of the property have active Type 2 short-term rental business licenses. Six (6) of these short-term rental units within 0.25 miles contribute to the city-wide overall 2% density cap. The University of Arkansas campus is located less than 400 feet to the west, with Old Main just over 1,000 feet west. In addition, Razorback Stadium, Bud Walton Arena, Harmon Field, Nadine Baum Studio, the Walton Arts Center, Razorback Greenway, and Dickson Street are within 1 mile of the subject property. No prior zoning or code violations have been reported at this location.**

§163.02, AUTHORITY; CONDITIONS; PROCEDURES. (continued)

(2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:

(a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: Staff finds the proposal is unlikely to negatively affect traffic flows given the availability of on-site and street parking, and vehicular access through a shared private drive. The impact as a short-term rental would not be out of character if the property were to be used as a long-term residential unit.

(b.) Off-street parking and loading areas where required, with particular attention to ingress and egress, economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

Finding: The dwelling has two (2) off-street parking spots available via the driveway with access off W. Lafayette St. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.

(c.) Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading,

Finding: The applicant proposes to utilize existing residential trash cart service. Staff recommends that the containers should be screened from public view when not at the curb for residential pick-up.

(d.) Utilities, with reference to locations, availability, and compatibility;

Finding: Utilities are currently available to the site, and the use as a short-term rental is not anticipated to impact the provision of utilities.

(e.) Screening and buffering with reference to type, dimensions, and character;

Finding: Staff recommends that residential carts be screened so that they are not visible from the public right-of-way.

(f.) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

Finding: Any proposed signage will be subject to Unified Development Code section 174 – Signs, and all the regulations therein.

(g.) Required yards and other open space; and

Finding: **The western side of the home is existing non-conforming and encroaches into the side setback.**

(h.) General compatibility with adjacent properties and other property in the district.

Finding: **Staff finds the use to be compatible with the surrounding residential properties. The number of short-term rentals nearby is consistent with the University's role as a heavy tourism and event driver, and the property appears to have adequate parking to handle the needs of the proposed use. Since the RMF-40 zoning district does not allow hotel/motel uses by right, this short-term rental would contribute to the city-wide density cap.**

BUDGET/STAFF IMPACT:
None

Attachments:

- Business Regulations
  - §118.01 Applicability
- Unified Development Code
  - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
  - §161.17 District Rmf-40, Residential Multi-Family, Forty (40) Units Per Acre
- Applicant Request Letter
- Building Floor Plans
- Site Plan
- Building Elevations
- Public Comments
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

118.01 Applicability

(E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.

(1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.

(2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.

(3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:

(a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
(b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
(c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.

(4) A separate business license shall be required for each dwelling unit used as a short-term rental.

(5) Any change in ownership requires a new or amended business license.

(6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.

(7) *License Application.* The application for a business– license shall include at minimum, the following information from applicants:

(a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
(b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
(c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
(d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
(e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
(f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
(g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.

(8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).

(11) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:

(a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
(b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
(c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.

(10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate compliance with

this section. For the purposes of these regulations, 'availability' means that the owner or agent is accessible by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.

(11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.

(12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.

(13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.

(14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.

(15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).

(16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 2% of all dwelling units in the Fayetteville city limits may be utilized as Type 2 rentals. Total dwelling units are determined from current United States Census Bureau and/or American Community Survey numbers, whichever number is higher. A conditional use permit may not permit:

(a) More Type 2 short-term rentals than what is allowed by the city-wide density cap. Type 2 short-term rentals in commercial and mixed-use zoning districts where hotel/motels are permitted by right shall not contribute to the city-wide density cap.
(b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
(c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
(d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.

(17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.

(20) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

(Ord. No. 6427 , §§1(Exh. A), 2, 4-20-21; Ord. No. 6505 , §1(Exh. A), 11-16-21; Ord. No. 6521 , §§1, 2, 1-18-22; Ord. No. 6537 , §1(Exh. A), 2-15-22)

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

(A) *Residential Zoning Districts.* Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts:

1) R-A
2) RSF-.5
3) RSF-1
4) RSF-2
5) RSF-4
6) RSF-7
7) RSF-8
8) RSF-18
9) RI-12
10) RI-U
11) RMF-6
12) RMF-12
13) RMF-18
14) RMF-24
15) RMF-40
16) NC

Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district.

Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

(B) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

(C) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

(D) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

(E) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

(F) *Exceptions.* Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

(G) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

(H) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

1) Adequate parking infrastructure;

2) Adequate adjoining or nearby streets for on-street parking;

3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and

4) Prior zoning or code violations

(Ord. No. 6427 , §§1(Exh. E), 2, 4-20-21; Ord. No. 6505 , §2(Exh. B), 11-16-21; Ord. No. 6537 , §2(Exh. B), 2-15-22)

161.17 District RMF-40, Residential Multi-Family - Forty (40) Units Per Acre

(A) *Purpose.* The RMF-40 Multi-family Residential District is designated to protect existing high density multi-family development and to encourage additional development of this type where it is desirable.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 26	Multi-family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by CUP
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 11	Manufactured home park
Unit 12a	Limited business
Unit 24	Home occupation
Unit 25	Professional offices
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	Forty (40) or less

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Manufactured home park	100 feet
Lot within a Manufactured home park	50 feet
Single-family	30 feet
Two (2) family	30 feet
Three or more	70 feet
Professional offices	100 feet

(2) *Lot Area Minimum.*

Manufactured home park	3 acres
Lot within a mobile home park	4,200 square feet
Townhouses: Individual lot	2,000 square feet
Single-family	2,500 square feet
Two (2) family	3,000 square feet
Three (3) or more	7,000 square feet
Fraternity or Sorority	1 acre

(3) *Land Area Per Dwelling Unit*.

Manufactured Home	3,000 square feet
Fraternity of Sorority	500 square feet per resident

(E) *Setback Requirements.*

Front	Side Other Uses	Side Single & Two (2) Family	Rear Other Uses	Rear Single Family
A build-to zone that is located between the front property line and a line 25 feet from the front property line.	8 feet	5 feet	20 feet	5 feet

(F) *Building Height Regulations.*

Building Height Maximum	2 stories/3 stories/5 stories*

* A building or a portion of a building that is located between 0 and 10 feet from the front property line or any master street plan right-of-way line shall have a maximum height of two (2) stories, between 10—20 feet from the master street plan right-of-way a maximum height of three (3) stories and buildings or portions of the building set back greater than 20 feet from the master street plan right-of-way shall have a maximum height of 5 stories.

If a building exceeds the height of two (2) stories, the portion of the building that exceeds two (2) stories shall have an additional setback from any side boundary line of an adjacent single family district. The amount of additional setback for the portion of the building over two (2) stories shall be equal to the difference between the total height of that portion of the building, and two (2) stories.

(G) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area. Accessory ground mounted solar energy systems shall not be considered buildings.

(H) Minimum Buildable Street Frontage. 50% of the lot width.

(Code 1965, App. A., Art. 5(IV); Ord. No. 2320, 4-5-77; Ord. No. 2700, 2-2-81; Ord. No. 1747, 6-29-70; Code 1991, §160.034; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5028, 6-19-07; Ord. No. 5224, 3-3-09; Ord. No. 5262, 8-4-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5800 , §1(Exh. A), 10-6-15; Ord. No. 5921 , §1, 11-1-16; Ord. No. 5945 , §§5, 8, 9, 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6245 , §2, 10-15-19; Ord. No. 6427 , §§1(Exh. C), 2, 4-20-21)

Ord. No. 6427 , § 2, adopted April 20, 2021, "determines that this ordinance and all amendments to Code sections ordained or enacted by this ordinance shall automatically sunset, be repealed, terminated, and become void twenty (20) months after the passage and approval of this ordinance, unless prior to that date, the City Council amends this ordinance to repeal this sunset, repeal and termination section."

LOT SURVEY

Survey Description

PART OF LOTS 4 & 5, BLOCK 1, GREGG'S ADDITION TO THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:.

COMMENCING FROM A FOUND NAIL AND WASHER MARKING THE NORTHWEST CORNER OF LOT 4, GREGG'S ADDITION THENCE S86°52'27"E ALONG THE NORTH LINE OF SAID LOT 4, A DISTANCE OF 47.57' TO A FOUND 5/8" REBAR MARKING THE TRUE POINT OF BEGINNING; THENCE S86°52'27"E A DISTANCE OF 43.76' TO A FOUND 3/8" REBAR; THENCE S02°42'51"W LEAVING SAID NORTH LINE OF SAID LOT 4, A DISTANCE OF 100.48' TO A FOUND 5/8" REBAR LOCATED ON THE NORTH RIGHT-OF-WAY OF W. LAFAYETTE STREET; THENCE ALONG SAID RIGHT-OF-WAY N87°07'07"W A DISTANCE OF 43.76'; THENCE LEAVING SAID RIGHT-OF-WAY N02°42'51"E A DISTANCE OF 100.67' RETURNING TO THE POINT OF BEGINNING HAVING A TOTAL AREA OF 4,401 SQ. FEET OR 0.101 ACRES MORE OR LESS AND IS SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAYS OF RECORD.

Utility Notes

THE LOCATIONS OF UTILITIES SHOWN HEREON ARE FROM OBSERVED EVIDENCE OF ABOVE GROUND APPURTENANCES ONLY. THE SURVEYOR WAS NOT PROVIDED WITH UNDERGROUND PLANS OR SURFACE GROUND MARKINGS TO DETERMINE THE LOCATION OF ANY SUBTERRANEAN USES.

BEFORE DIGGING IN THIS AREA, CALL "ONE CALL" 811 FOR FIELD LOCATIONS (REQUEST FOR GROUND MARKINGS) OF UNDERGROUND UTILITY LINES

Miscellaneous Notes

COMPLETED FIELD WORK:
NOVEMBER 17, 2020

REFERENCE DOCUMENTS:
1. WARRANTY DEED FILED IN DEED BOOK 2018 AT PAGE 15866.
2. SUBDIVISION PLAT FILED IN PLAT BOOK 61 AT PAGE 463.

SOME FEATURES SHOWN ON THIS PLAT MAY BE SHOWN OUT OF SCALE FOR CLARITY

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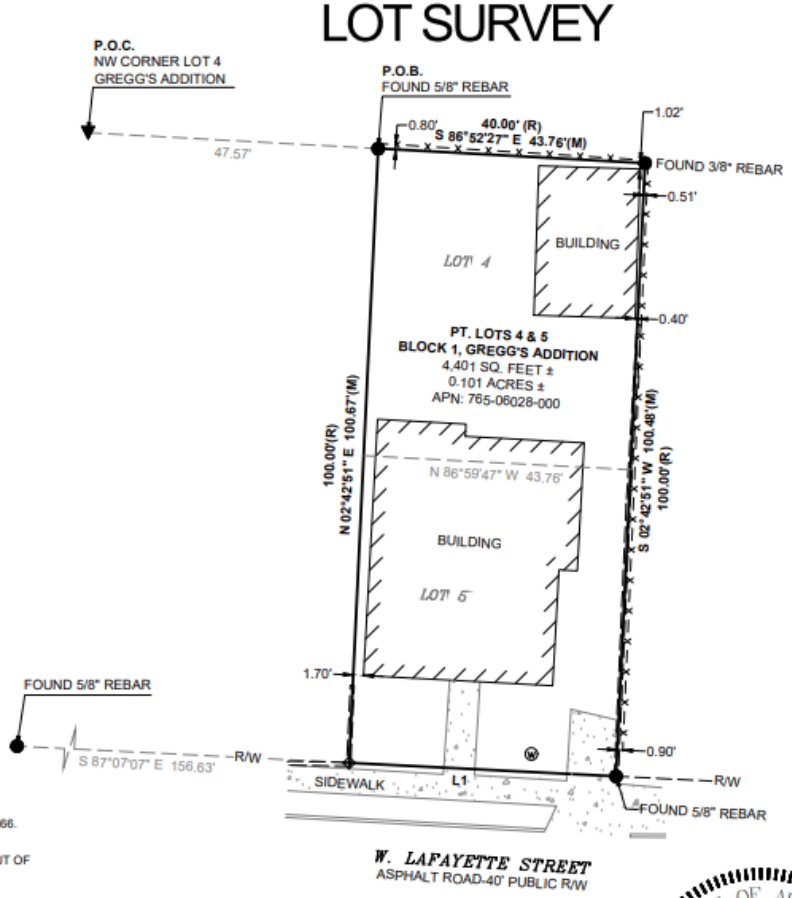

	LINE	BEARING	DISTANCE
(M)	L1	N 87°07'07" W	43.76'
(R)	L1	WEST	40.00'

0' 20' 40' 60'

1 INCH = 20 FEET

BASIS OF BEARING:
BEARINGS SHOWN ARE BASED ON GRID NORTH FOR ARKANSAS COORDINATE SYSTEM, NORTH ZONE, NAD83.
LATITUDE = 36°04'12.8804"
LONGITUDE = -94°10'05.6322"
CONVERGENCE ANGLE = -01°15'42.09059
DISTANCES SHOWN ON PLAT ARE GRID.
COMBINED SCALE FACTOR
(GRID TO GROUND) = 1.000090092115858

Zoning & Setback Information

CURRENT ZONING:

RMF-40 - RESIDENTIAL MULTI-FAMILY

BUILDING SETBACKS:
FRONT: A BUILD-TO ZONE THAT IS LOCATED BETWEEN THE FRONT PROPERTY LINE AND A LINE 25 FEET FROM THE FRONT PROPERTY LINE.
SIDE (SINGLE & TWO FAMILY) 5'
SIDE (OTHER USES): 8'
REAR (SINGLE FAMILY): 5'
REAR (OTHER USES): 20'

FOR FURTHER INTERPRETATION AND/OR DETAILED EXPLANATION OF THE FAYETTEVILLE ZONING ORDINANCE AND LAND CONFIRMATIONS, PLEASE CONTACT THE FAYETTEVILLE ARKANSAS PLANNING DEPARTMENT.

CONTACT:
FAYETTEVILLLE PLANNING DEPARTMENT
ADDRESS: 125 W MOUNTAIN ST, FAYETTEVILLE, AR 72701
PHONE: (479) 575-8267

I HEREBY CERTIFY THIS TO BE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF ON THIS THE 23RD DAY OF NOVEMBER, 2020.

IF THE SIGNATURE ON THIS SEAL IS NOT AN ORIGINAL AND NOT BLUE IN COLOR THEN IT SHOULD BE ASSUMED THAT THIS PLAT MAY HAVE BEEN ALTERED. THE ABOVE CERTIFICATION SHALL NOT APPLY TO ANY COPY THAT DOES NOT BEAR AN ORIGINAL SEAL AND SIGNATURE.

Legend of Symbols

- BOUNDARY LINE
- CENTERLINE OF ROAD (C/L)
- RIGHT-OF-WAY (R/W)
- FENCE
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- FOUND NAIL & WASHER
- FOUND MONUMENT (AS NOTED)
- SET 1/2" REBAR & CAP #1659
- COMPUTED POINT
- WATER METER
- N.T.S. NOT TO SCALE
- O.V.H. OVERHANG
- (M) MEASURED
- (R) RECORDED

FIRM:
BLEW & ASSOCIATES, PA
CIVIL ENGINEERS & LAND SURVEYORS
3825 N. SHILOH DRIVE
FAYETTEVILLE, ARKANSAS 72703
OFFICE: 479.443.4506
FAX: 479.582.1883
www.BLEWINC.com
Certificate of Authorization № 1534

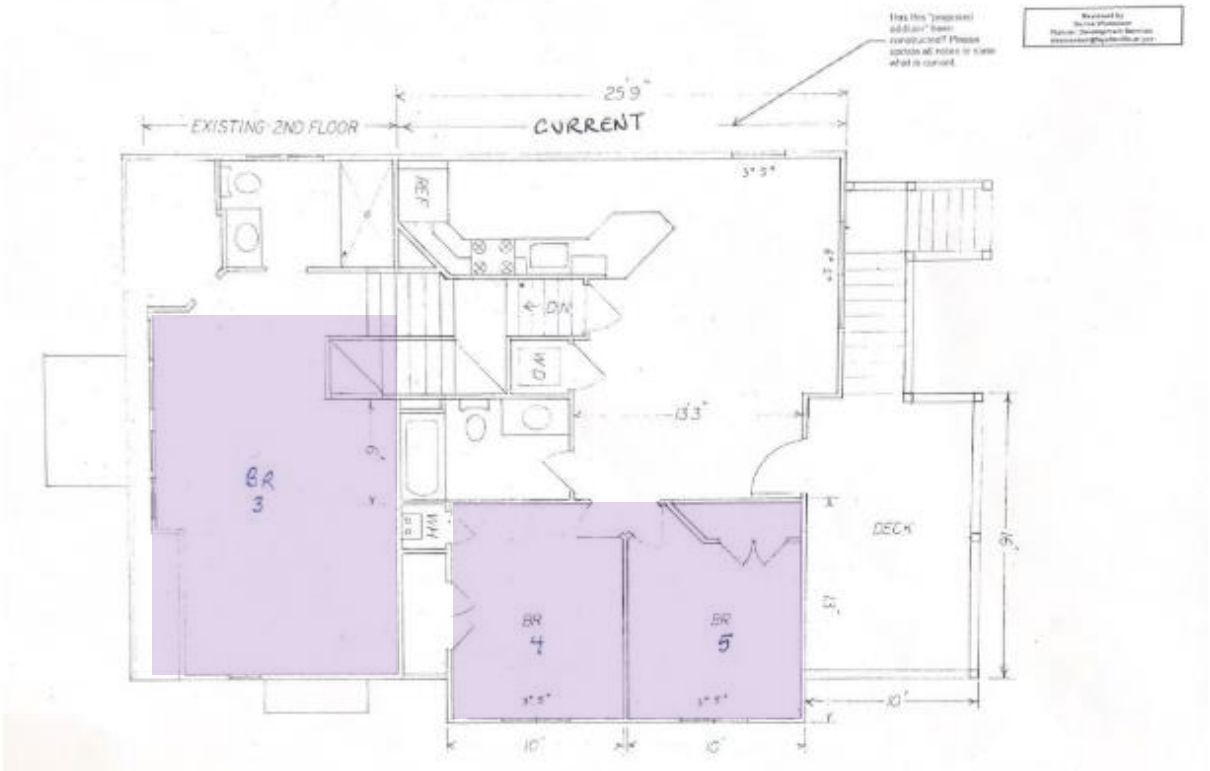
DRAWN BY & DATE:	REVIEWED BY:	SURVEYED BY:
B.D.M 11-23-2020	B.G.	R.S.
COUNTY & STATE: WASHINGTON COUNTY, ARKANSAS	JOB NUMBER: 20-6239	

LOCATION:
614 W LAFAYETTE ST, FAYETTEVILLE, AR

FOR THE USE AND BENEFIT OF:
SUSAN TONYMON

APPLICANT EXHIBIT: FLOOR PLAN

STR CUP: 2023-0033 Floor Plan
Kenneth and Susan Tonymon
614 W. Lafayette St, Fayetteville, AR 72701



APPLICANT EXHIBIT: EXTERIOR PHOTOS

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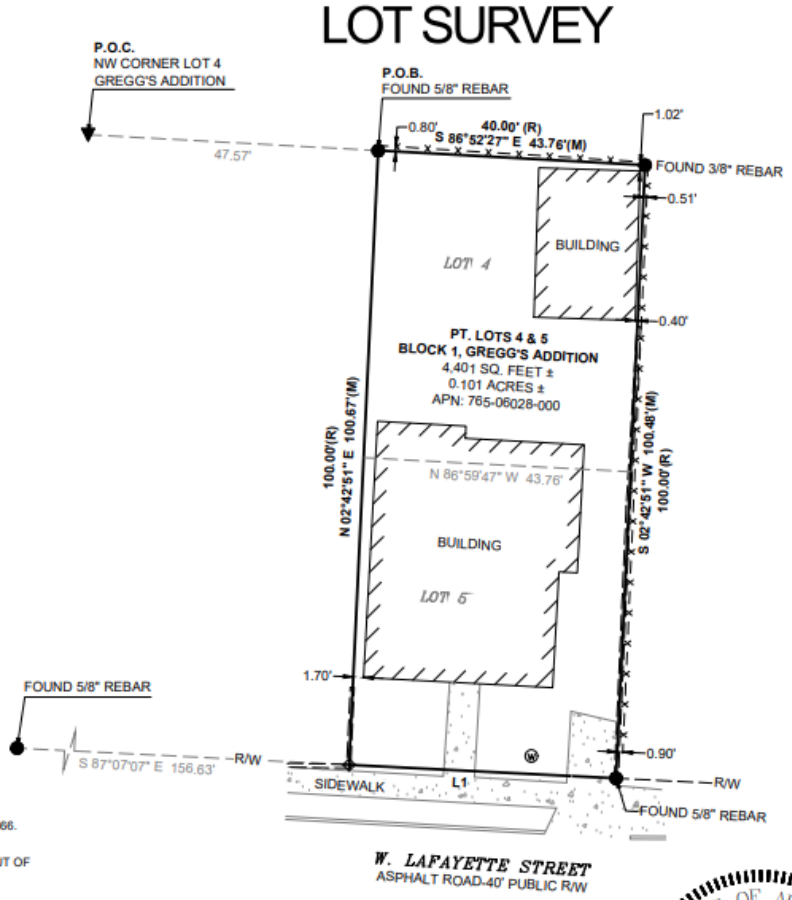

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B.D.M	11-23-2020	B.G.	R.S.
COUNTY & STATE:		JOB NUMBER:	
WASHINGTON COUNTY, ARKANSAS		20-6239	

LOCATION:
614 W LAFAYETTE ST, FAYETTEVILLE, AR

FOR THE USE AND BENEFIT OF:
SUSAN TONYMON

APPLICANT EXHIBIT: EXTERIOR PHOTOS

Wonsower, Donna

From: Planning Shared
Sent: Monday, March 20, 2023 8:37 AM
To: Wonsower, Donna
Subject: FW: Support for Kenneth and Susan Tonymon 614 W. Lafayette St. Short-Term Rental

Follow Up Flag: Follow up
Flag Status: Flagged

FYI

Thank you

Mirinda Hopkins
Development Coordinator
Planning Division
City of Fayetteville
479-575-8267
Website | Facebook | Twitter | Instagram | YouTube

From: Evelyn Stilwell <evelynstilwell@gmail.com>
Sent: Saturday, March 18, 2023 11:25 AM
To: Planning Shared <planning@fayetteville-ar.gov>
Cc: dog13gregg <dog13gregg@aol.com>
Subject: Re: Support for Kenneth and Susan Tonymon 614 W. Lafayette St. Short-Term Rental

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To City Planners and others,

I am writing in favor of the application by Kenneth and Susan Tonymon to obtain a conditional use permit to use the Tovey House at 614 W. Lafayette St. as a short-term rental.

Rather than becoming a nuisance, I believe that in this case it is appropriate. I have reason to think that the owners will pay close attention to the use of the property and that we will not be adversely affected by the conditional use.

The owners have taken great care in restoring/adapting the historic residence and bringing it into the 21st century. I trust that many who love Fayetteville, but who live elsewhere, will be happy to have such a lovely place within walking distance to the campus and downtown.

I live nearby, and I appreciate neighbors who respect the quiet needs of their neighbors. I am happy to have a short term rental well managed, as I am sure the Tonymons will do. Our family welcomes them.

Respectfully,

Evelyn Stilwell

The Arkansas House

358 Arkansas Ave.

Fayetteville, AR

On Sun, Mar 12, 2023 at 3:34 PM Paula Marinoni <pm@paulamarinoni.com> wrote:

> To City Planners;
>
> I am writing in support of the application by Kenneth and Susan Tonymon to obtain a conditional use permit to use the Tovey House at 614 W. Lafayette St. as a short-term rental.
>
> I know you are buried with applications for short-term rentals and for many I would be in opposition, because I think it is an intrusion to the peaceful enjoyment of residents in an established neighborhood. However, in this case it is appropriate. I have full confidence that the owners will pay careful attention to the use of the property and that we will not be adversely affected by the conditional use.
>
> The owners have taken great care in restoring/adapting the historic residence and bringing it into the 21st century. I trust that many who love Fayetteville, but who live elsewhere, will be very excited to be able to stay close to campus and enjoy being able to walk to games, etc.

On behalf of my family, who has been in this neighborhood for 118 years and early family members who were friends with Henry Tovey, I want to express our great appreciation for the love and care the Tonymon's put forth in the restoration of the Tovey House and we look forward to sharing our neighborhood with their guests.

Sincerely;

Paula Marinoni

Villa Rosa

617 W. Lafayette

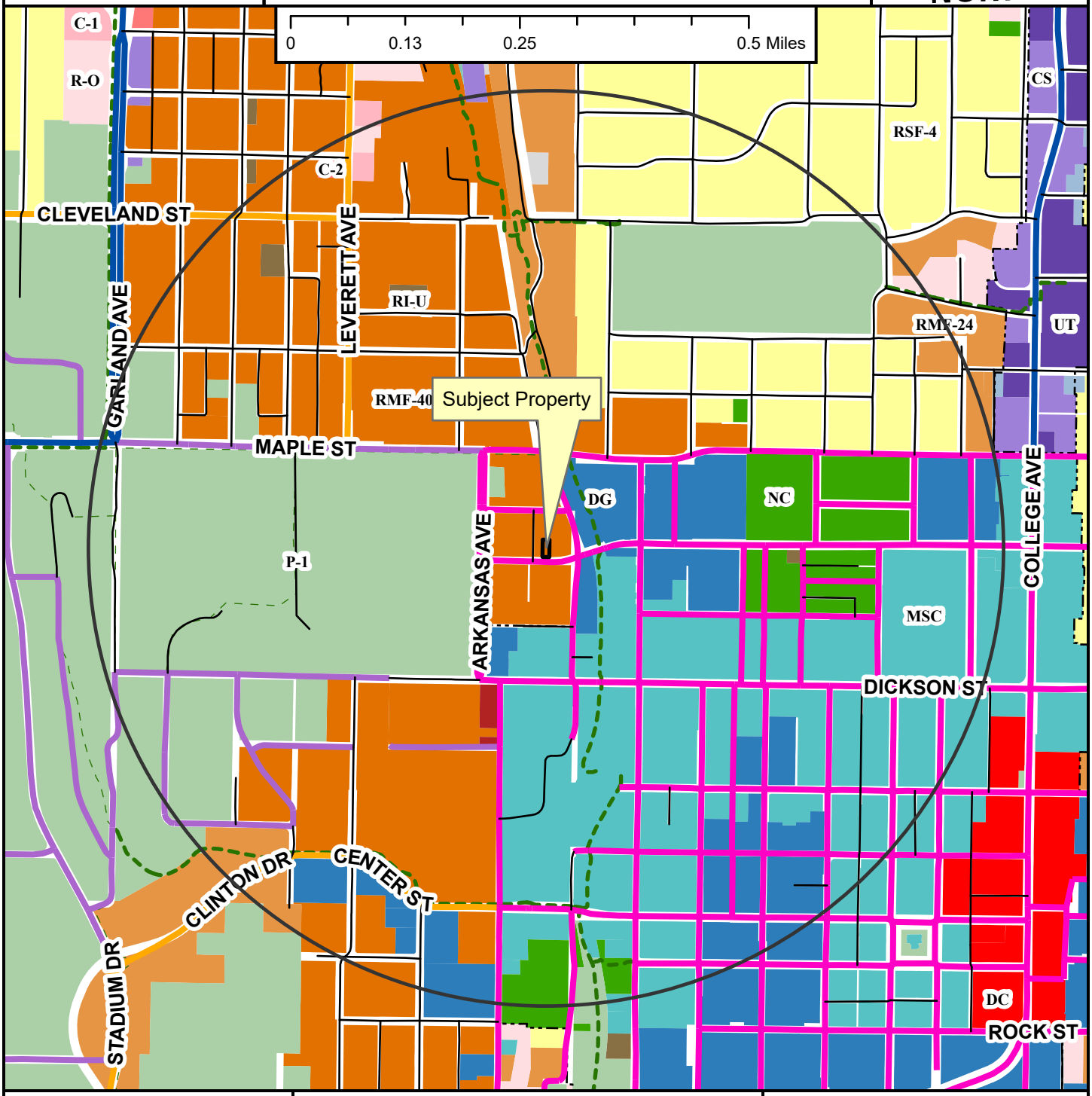
Fayetteville, AR

CUP-2023-0033

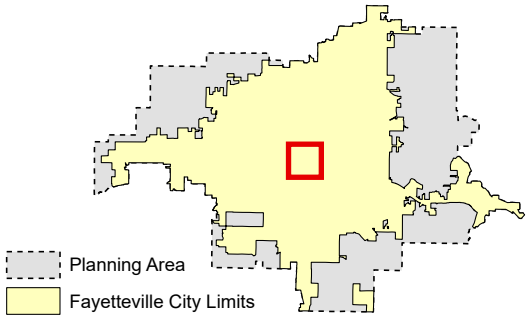
One Mile View

614 W. Lafayette St.

NORTH



- Neighborhood Link
- Institutional Master Plan
- Regional Link - High Activity
- Urban Center
- Unclassified
- Alley
- Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Fayetteville City Limits
- Planning Area



Zoning

RESIDENTIAL SINGLE-FAMILY
- NS-G
- RI-U
- RI-12
- NS-L
- Residential-Agricultural
- RSF-.5
- RSF-1
- RSF-2
- RSF-4
- RSF-7
- RSF-8
- RSF-18

RESIDENTIAL MULTI-FAMILY
- RMF-6
- RMF-12
- RMF-18
- RMF-24
- RMF-40

INDUSTRIAL
- I-1 Heavy Commercial and Light Industrial
- I-2 General Industrial

EXTRACTION
- E-1

COMMERCIAL
- Residential-Office
- C-1
- C-2
- C-3

FORM BASED DISTRICTS
- Downtown Core
- Urban Thoroughfare
- Main Street Center
- Downtown General
- Community Services
- Neighborhood Services
- Neighborhood Conservation

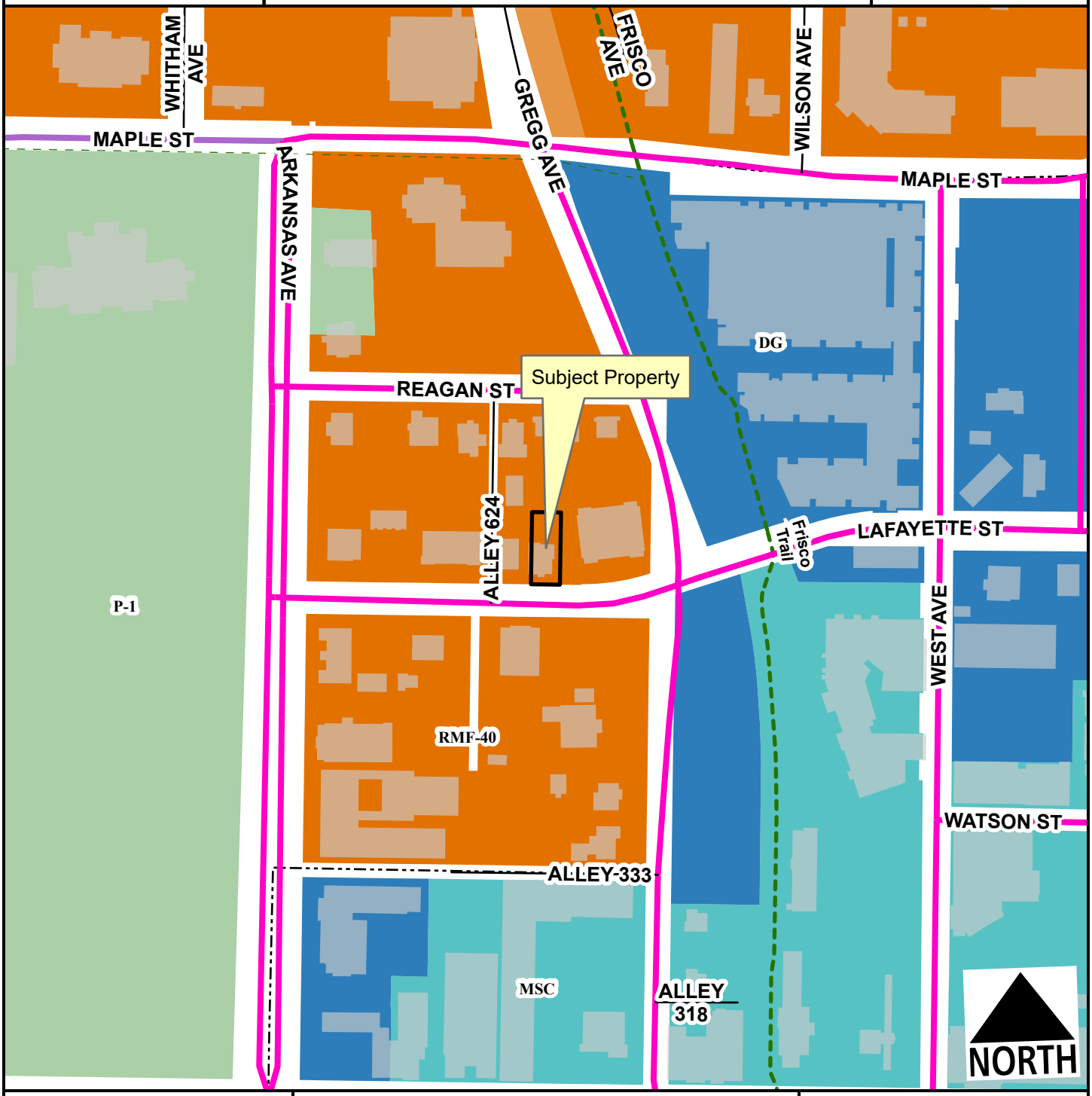
PLANNED ZONING DISTRICTS
- Commercial, Industrial, Residential

INSTITUTIONAL
- P-1

CUP-2023-0033

Close Up View

614 W. Lafayette St.



- Institutional Master Plan
- Urban Center
- Alley
- Residential Link
- Planning Area
- Fayetteville City Limits
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District

Feet

0 75 150 300 450 600

1:2,400

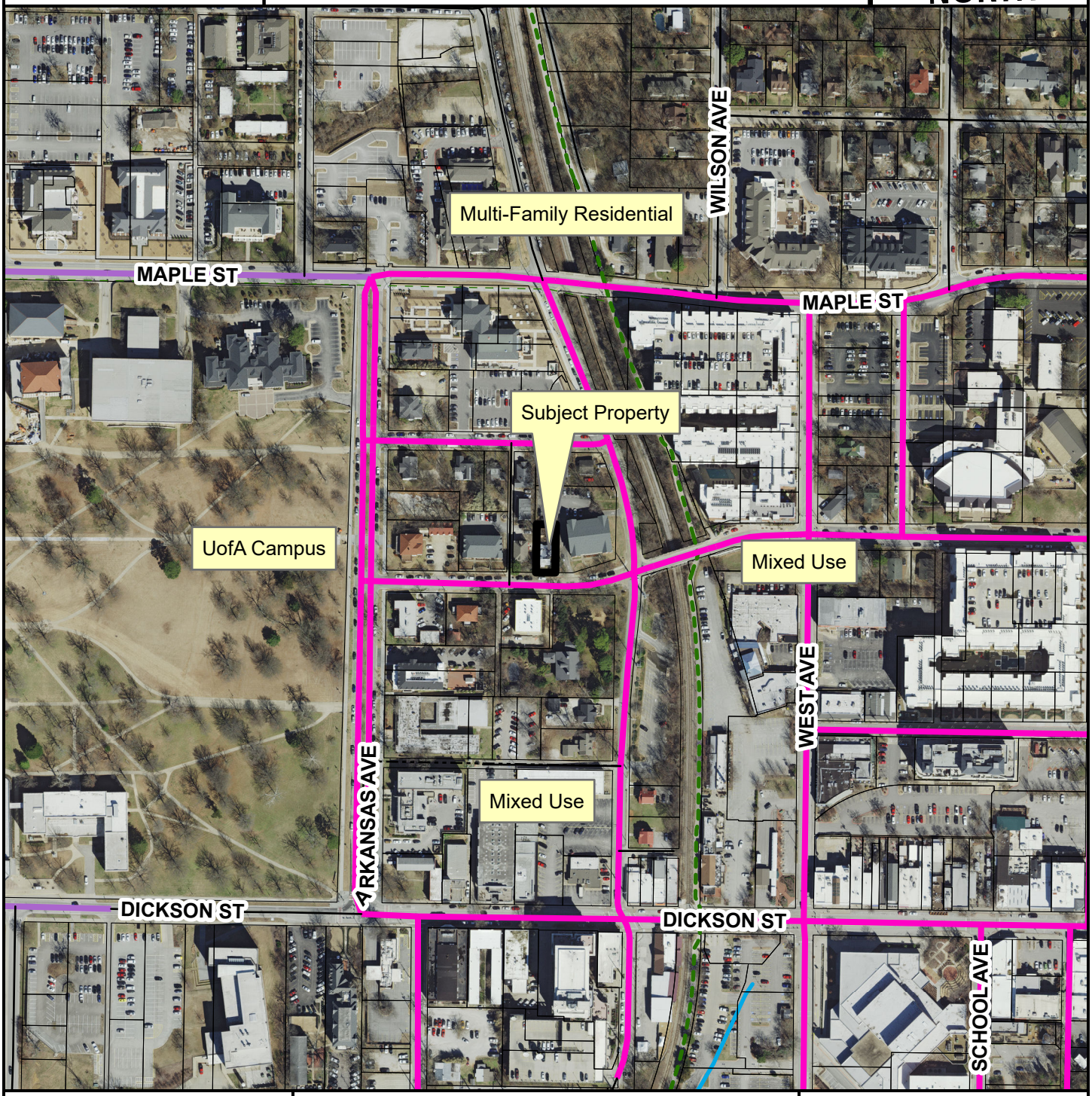
- RMF-24
- RMF-40
- Main Street Center
- Downtown General
- P-1

CUP-2023-0033

Current Land Use

614 W. Lafayette St.

NORTH



- Neighborhood Link
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- Unclassified
- Alley
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- Trail (Proposed)
- Planning Area
- Fayetteville City Limits
- Design Overlay District

Feet

0 112.5 225 450 675 900

1:3,600

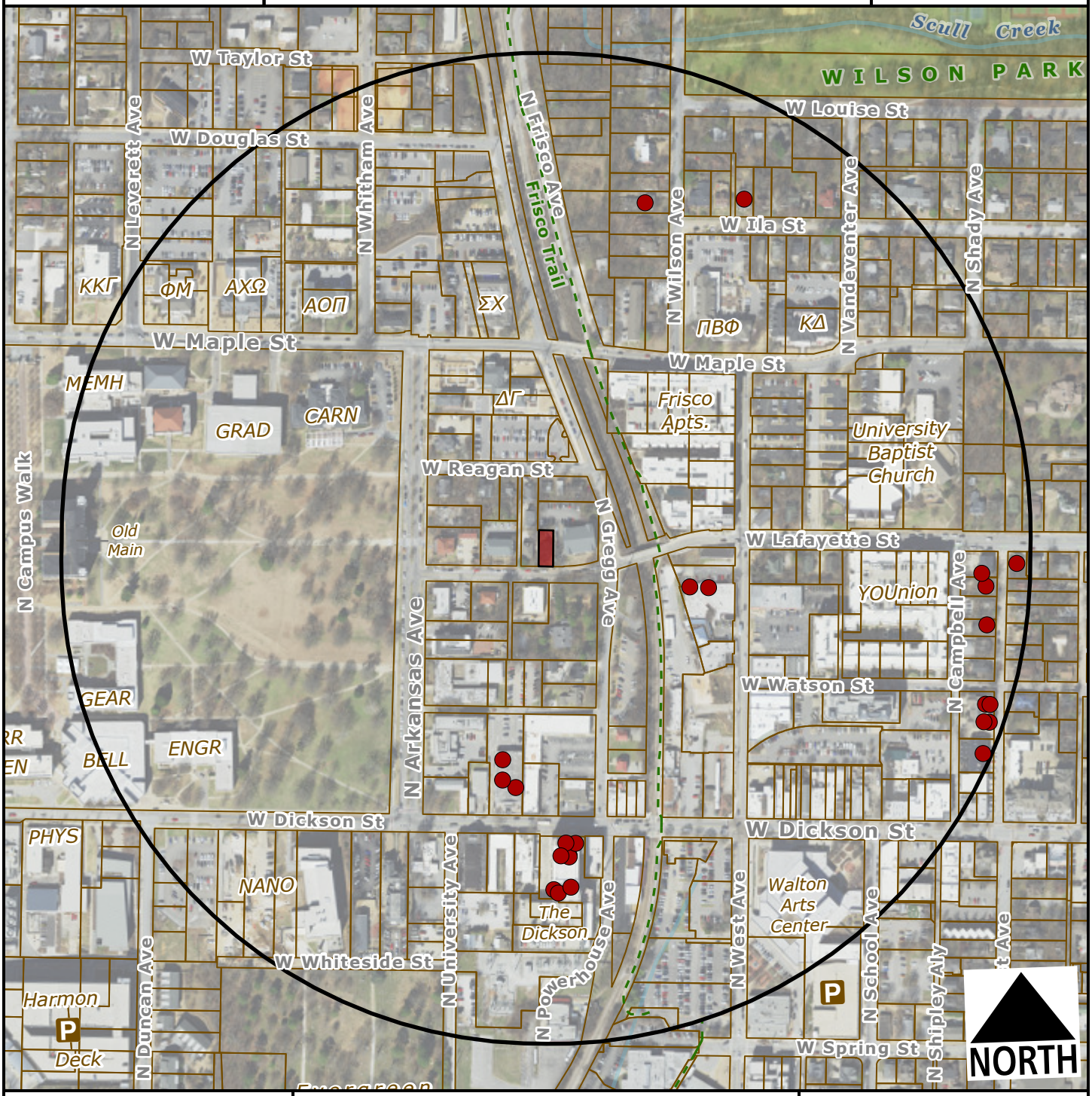
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0033

STRs Within 1/4 Mile

614 W. Lafayette St.



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Number of STR Licenses

Contributing to 2% density cap	6
NOT contributing to 2% density cap	18
Total	**24**

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner

MEETING DATE: March 27, 2023

SUBJECT: **CUP-2023-0004: Conditional Use Permit (462 E. MIMOSA LN./TILLMAN, 251):** Submitted by WALTER TILLMAN, for property located at 462 E. MIMOSA LN. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY – 24 UNITS PER ACRE and contains approximately 0.14 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0004** with conditions as outlined by staff.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0004**, determining:*

- *In favor of compatibility with adjacent properties, and*
- *In favor of all other conditions as recommended by staff."*

BACKGROUND:
The property is in north Fayetteville, roughly ¼ mile southwest of the intersection of N. College Avenue and E. Appleby Road. It is on the north side of E. Mimosa Lane in the Fiesta Park subdivision. The property totals 0.14 acres and is currently developed with a 949 square-foot, two-bedroom single-family dwelling which was built in 1993, according to Washington County records. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1.*

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre
South	Single-Family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre
East	Single-Family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre
West	Single-Family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre

City Plan 2040 Future Land Use Designation: **Residential Neighborhood Area**.

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term

rentals are subject to density limitations, including a 2% citywide cap, and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

Public Comment: Staff has not received any public comment regarding this request.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0004,** with the following conditions;

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible with the neighborhood based on the findings in this report;*

2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in the development code.

3. Per §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within 1 year of conditional use permit approval.

4. Per ordinance, the number of occupants is limited to a maximum of two people per bedroom, plus two, for the entire unit when the property is operated as a short-term rental.

5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.

6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

7. All trash receptacles shall be screened from view of the right-of-way.

8. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.

9. Any signage shall meet the requirements as outlined in §174, Signage.

PLANNING COMMISSION ACTION:	**Required**	**YES**	
Date: March 27, 2023	**❒ Tabled**	**❒ Approved**	**❒ Denied**
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.

2. Decide such questions as are involved in determining whether a conditional use should be granted; and,

3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or

4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

C. A conditional use shall not be granted by the Planning Commission unless and until:

1. A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.

Finding: **The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental in the RMF-24 zoning district.**

2. The applicant shall pay a filing fee as required under Chapter 159 to cover the cost of expenses incurred in connection with processing such application.

Finding: **The applicant has paid the required filing fee.**

3. The Planning Commission shall make the following written findings before a conditional use shall be issued:

(a.) That it is empowered under the section of this chapter described in the application to grant the conditional use; and

Finding: **The Planning Commission is empowered under Unified Development Code §118.01(E)(2) to grant the requested conditional use permit.**

(b.) That the granting of the conditional use will not adversely affect the public interest.

Finding: **Staff finds that granting the requested conditional use is unlikely to negatively affect the public interest, given the applicable business license requirements including a required building safety inspection, and applicable density caps on Type 2 short-term rentals.**

(c.) The Planning Commission shall certify:

(1.) Compliance with the specific rules governing individual conditional uses; and

Finding: There are specific rules governing Short-Term Rentals, as follows:

§163.18 - SHORT-TERM RENTALS

A. General Standards.

(1) Residential Zoning Districts. Residential Zoning Districts. Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts: R-A, RSF-.5, RSF-1, RSF-2, RSF-4, RSF-7, RSF-8, RSF-18, RI-12, RI-U, RMF-6, RMF-12, RMF-18, RMF-24, RMF-40, NC. Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district. Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

Finding: The request is to operate a Type 2 short-term rental in RMF-24 zoning, which requires a conditional use permit.

(2) Occupancy. Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

Finding: Occupancy is limited as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. Since the dwelling has two bedrooms, the short-term rental would be limited to six guests.

(3) Parking. Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

Finding: Staff recommends parking is limited as described in UDC §163.18(A)(4). Single-family homes are required to provide parking at a rate of two per dwelling. According to the applicant the property has access to two off-street parking spots in the existing driveway. On-street parking is available along E. Mimosa Lane.

(4) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

Finding: The application letter suggests the property will comply with the City's regulations for a short-term rental. As a condition of approval, staff recommends a prohibition on special events.

(5) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer,

other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

Finding: **The application is for use of the property at 462 E. Mimosa Lane. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.**

(6) Exceptions. Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

Finding: **Type 2 short-term rentals are subject to a citywide density cap at 2% of total dwelling units, as determined by United States Census Bureau data. Recently released 5-year American Community Survey data from 2021 lists total housing units in Fayetteville at 44,706, which puts the cap at 894 total Type 2 short-term rentals. To date, the City has issued 314 Type 2 short-term rental licenses that are subject to this cap. Hotel and motel uses are not permitted by right in RMF-24 zoning, so this short-term rental would contribute to the city-wide density cap.**

(7) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

Finding: **This short-term rental would be subject to all regulations in City Code §118.01 that apply to Type 2 short-term rentals in residential zoning districts. Applicable business licensing requirements will be reviewed by staff and confirmed by the applicant at the time of licensing.**

(8) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

1) Adequate parking infrastructure;
2) Adequate adjoining or nearby streets for on-street parking;
3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and
4} Prior zoning or code violations.

Finding: **There appears to be adequate parking available to support the use of the property as a short-term rental based on the applicant's submittal. A total of two off-street spaces are available in the existing driveway. On street parking is also available along E. Mimosa Lane. Within ¼ mile of the property city business license records indicate there are eight Type 2 rental business licenses. Four are proximate, within the Fiesta Park subdivision, and four are located near the extents of the ¼ mile radius. Type 2 short-term rentals represent 4% of the 100 residential lots in the three phases of the Fiesta Park subdivision. There are no active or prior zoning code violations at the subject address.**

§163.02, AUTHORITY; CONDITIONS; PROCEDURES. (continued)

(2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:

(a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: **The subject property has frontage along E. Mimosa Lane, which is classified as a Residential Link Street. Access is provided through an existing driveway that is approximately 20-feet in width and 22-feet deep. Staff finds that the proposal will not adversely affect traffic flows considering the use of the property would be limited to a maximum of six guests, which would not be out of character with use of the property for residential purposes. Sidewalks are not present along the property's frontage but are at the back of curb across E. Mimosa Lane and along one side of the street throughout the subdivision.**

(b.) Off-street parking and loading areas where required, with particular attention to ingress and egress, economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

Finding: **The applicant has indicated that there are two off-street guest vehicle parking spaces available in the driveway. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.**

(c.) Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading,

Finding: **The applicant proposes to utilize existing residential trash cart service. Staff recommends that the containers should be screened from public view when not at the curb for residential pick-up.**

(d.) Utilities, with reference to locations, availability, and compatibility;

Finding: **Utilities are currently available to the site and the use as a short-term rental is not anticipated to impact the provision of utilities.**

(e.) Screening and buffering with reference to type, dimensions, and character;

Finding: **Staff recommends that residential carts be screened so that they are not visible from the public right-of-way.**

(f.) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

Finding: **Any proposed signage will be subject to Unified Development Code section 174 – Signs, and all the regulations therein.**

(g.) Required yards and other open space; and

Finding: **Based on the applicant's submittal, the structure appears to be meeting relevant setbacks.**

(h.) General compatibility with adjacent properties and other property in the district.

Finding: **Staff finds the use to be compatible with surrounding properties. The property appears to have adequate parking to accommodate overnight guests, trash containers are screened, and minimal disruptions are expected for neighbors.**

BUDGET/STAFF IMPACT:
None

Attachments:

- Business Regulations
  - §118.01 Applicability
- Unified Development Code
  - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
  - §161.16 District RMF-24, Residential Multi-Family, 24 Units per Acre
- Applicant Request Letter
- Site Plan
- Site Photos
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs Within ¼ Mile Map

118.01 Applicability

(E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.

(1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.

(2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.

(3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:

(a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
(b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
(c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.

(4) A separate business license shall be required for each dwelling unit used as a short-term rental.

(5) Any change in ownership requires a new or amended business license.

(6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.

(7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:

(a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
(b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
(c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
(d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
(e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
(f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
(g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.

(8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).

(11) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:

(a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
(b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
(c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.

(10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate

compliance with this section. For the purposes of these regulations, 'availability' means that the owner or agent is accessible by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.

(11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.

(12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.

(13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.

(14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.

(15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).

(16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 2% of all dwelling units in the Fayetteville city limits may be utilized as Type 2 rentals. Total dwelling units are determined from current United States Census Bureau and/or American Community Survey numbers, whichever number is higher. A conditional use permit may not permit:

(a) More Type 2 short-term rentals than what is allowed by the city-wide density cap. Type 2 short-term rentals in commercial and mixed-use zoning districts where hotel/motels are permitted by right shall not contribute to the city-wide density cap.
(b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
(c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
(d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.

(17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.

(20) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

(Ord. No. 6427 , §§1(Exh. A), 2, 4-20-21; Ord. No. 6505 , §1(Exh. A), 11-16-21; Ord. No. 6521 , §§1, 2, 1-18-22; Ord. No. 6537 , §1(Exh. A), 2-15-22)

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

(A) *Residential Zoning Districts.* Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts:

1) R-A
2) RSF-.5
3) RSF-1
4) RSF-2
5) RSF-4
6) RSF-7
7) RSF-8
8) RSF-18
9) RI-12
10) RI-U
11) RMF-6
12) RMF-12
13) RMF-18
14) RMF-24
15) RMF-40
16) NC

Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district.

Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

(B) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

(C) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

(D) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

(E) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

(F) *Exceptions.* Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

(G) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

(H) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

1) Adequate parking infrastructure;

2) Adequate adjoining or nearby streets for on-street parking;

3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and

4) Prior zoning or code violations

(Ord. No. 6427 , §§1(Exh. E), 2, 4-20-21; Ord. No. 6505 , §2(Exh. B), 11-16-21; Ord. No. 6537 , §2(Exh. B), 2-15-22)

161.16 District RMF-24, Residential Multi-Family - Twenty-Four (24) Units Per Acre

(A) *Purpose.* The RMF-24 Multi-family Residential District is designed to permit and encourage the developing of a variety of dwelling types in suitable environments in a variety of densities.

(B) *Uses.*

(1) Permitted Uses.

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 26	Multi-family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 11	Manufactured home park
Unit 12a	Limited business
Unit 24	Home occupations
Unit 25	Professional offices
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	24 or less

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Manufactured home park	100 feet
Lot within a Manufactured home park	50 feet
Single-family	35 feet
Two-family	35 feet
Three or more	70 feet
Professional offices	100 feet

(2) *Lot Area Minimum.*

Manufactured home park	3 acres
Lot within a mobile home park	4,200 square feet
Townhouses: Individual lot	2,000 square feet
Single-family	3,000 square feet
Two (2) family	4,000 square feet
Three (3) or more	7,000 square feet
Fraternity or Sorority	2 acres
Professional offices	1 acres

(3) *Land Area Per Dwelling Unit*.

Manufactured Home	3,000 square feet

(E) *Setback Requirements.*

Front	Side Other Uses	Side Single & Two (2) Family	Rear Other Uses	Rear Single Family
A build-to zone that is located between the front property line and a line 25 feet from the front property line.	8 feet	5 feet	20 feet	5 feet

(F) *Building Height Regulations.*

Building Height Maximum	2 stories/3 stories/5 stories*

* A building or a portion of a building that is located between 0 and 10 feet from the front property line or any master street plan right-of-way line shall have a maximum height of two (2) stories, between 10—20 feet from the master street plan right-of-way a maximum height of three (3) stories and buildings or portions of the building set back greater than 20 feet from the master street plan right-of-way shall have a maximum height of 5 stories.

If a building exceeds the height of two (2) stories, the portion of the building that exceeds two (2) stories shall have an additional setback from any side boundary line of an adjacent single family district. The amount of additional setback for the portion of the building over two (2) stories shall be equal to the difference between the total height of that portion of the building, and two (2) stories.

(G) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area. Accessory ground mounted solar energy systems shall not be considered buildings.

(H) Minimum Buildable Street Frontage. 50% of the lot width.

(Code 1965, App. A., Art. 5(III); Ord. No. 2320, 4-6-77; Ord. No. 2700, 2-2-81; Code 1991, §160.033; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5028, 6-19-07; Ord. No. 5079, 11-20-07; Ord. No. 5224, 3-3-09; Ord. No. 5262, 8-4-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5495, 4-17-12; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5800 , §1(Exh. A), 10-6-15; Ord. No. 5921 , §1, 11-1-16; Ord. No. 5945 , §§5, 8, 9, 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6245 , §2, 10-15-19; Ord. No. 6427 , §§1(Exh. C), 2, 4-20-21)

Ord. No. 6427 , § 2, adopted April 20, 2021, "determines that this ordinance and all amendments to Code sections ordained or enacted by this ordinance shall automatically sunset, be repealed, terminated, and become void twenty (20) months after the passage and approval of this ordinance, unless prior to that date, the City Council amends this ordinance to repeal this sunset, repeal and termination section."

Friday, January 6, 2023

462 Mimosa Ln Request Letter

---

1. This is being submitted to request approval for a conditional use permit for 462 E Mimosa Ln in Fayetteville. Walter (myself) and Anna Tillman are the owners and will remain the owners. We are proposing that the company Vacasa will operate and manage our property at the stated address as a short term rental.

(A) building size - 949 square feet

(B) N/A

(C) 2 parking spaces present in driveway/2 needed

(D) N/A, home will be used as a residential short term rental.

(E) Normal residential outdoor light fixtures: front porch sconce, side patio wall light fixtures x2

(F) Minimal to no noise, will have quiet hours enforced with STR customers

(G) Side and back yard areas buffered from adjacent properties with a privacy fence. Front yard shared with both next door neighbors.

(H) Trash and refuse services to be continued by the city of Fayetteville as they were with previous long term tenants/owners.

(I) No impact on traffic. 1 or 2 cars at a time.

(J) The proposed use for this property as a short term rental will not change any features of the present home. It is compatible with all other adjacent properties as there are multiple short term rental properties already in the neighborhood. Rules and guidelines will be established and enforced with guests to ensure safety and preservation of property.

2. See separately submitted deed for legal description

3. N/A

4. See separate attachment for present floorpan. No structural changes have been made.

5. Parcel Map

See separately attached map

- East Neighbor: Sharon Bradford | 480 E Mimosa Ln | Parcel # 765-17018-000
- West Neighbor: Marc Marino | 438 E Mimosa Ln | Parcel # 765-17016-000
- Northwest neighbor: Mark Olsen | 439 E Redbud Ln | Parcel # 765-16882-000
- North neighbor: Sharon Roller | 463 E Redbud Ln | Parcel # 765-16881-000
- Northeast neighbor: Jed Clampit | 481 E Redbud | Parcel # 765-16880-000

6. Will notify applicable neighbors

7. N/A Applicant/representative is one of the owners

Shed (no access for guests)
Master bed
Master bath
guest bath
guest bed
Side patio
462
Kitchen
Dining area
Garage
Living room
Driveway
E Mimosa Ln

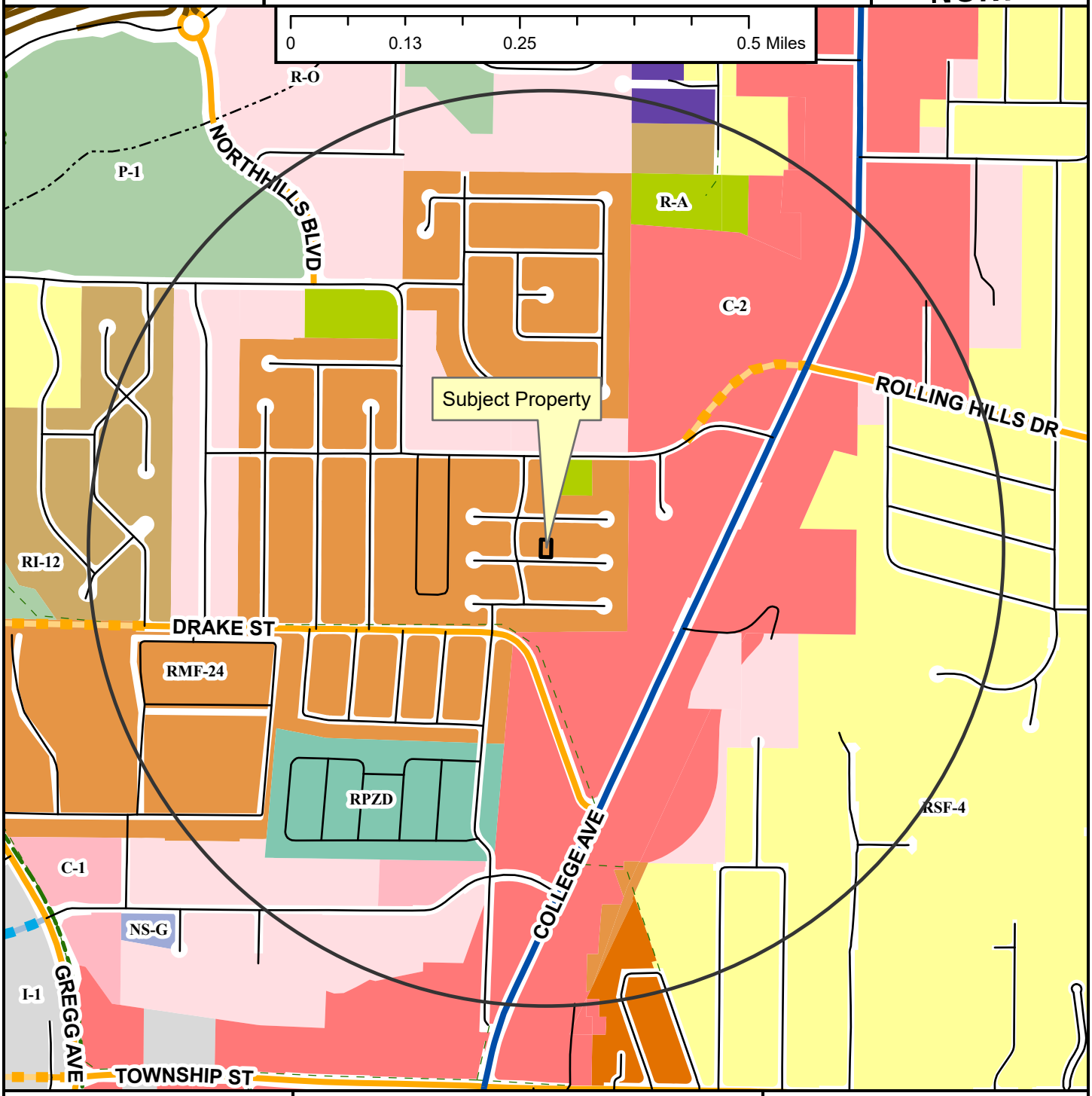
Laundry

CUP-2023-0004

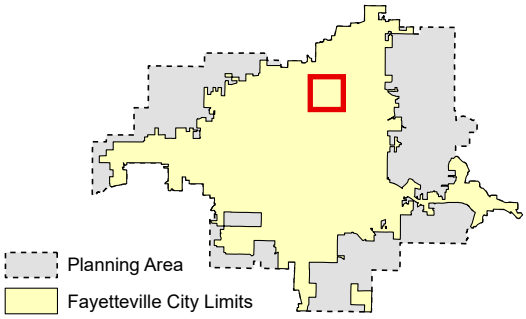
One Mile View

462 E. MIMOSA LN

NORTH



- Neighborhood Link
- Regional Link - High Activity
- Freeway/Expressway
- Unclassified
- Residential Link
- Planned Neighborhood Link
- Planned Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Fayetteville City Limits
- Planning Area



Zoning

RESIDENTIAL SINGLE-FAMILY
- NS-G
- RI-U
- RI-12
- NS-L
- Residential-Agricultural
- RSF-.5
- RSF-1
- RSF-2
- RSF-4
- RSF-7
- RSF-8
- RSF-18

RESIDENTIAL MULTI-FAMILY
- RMF-6
- RMF-12
- RMF-18
- RMF-24
- RMF-40

INDUSTRIAL
- I-1 Heavy Commercial and Light Industrial
- I-2 General Industrial

EXTRACTION
- E-1

COMMERCIAL
- Residential-Office
- C-1
- C-2
- C-3

FORM BASED DISTRICTS
- Downtown Core
- Urban Thoroughfare
- Main Street Center
- Downtown General
- Community Services
- Neighborhood Services
- Neighborhood Conservation

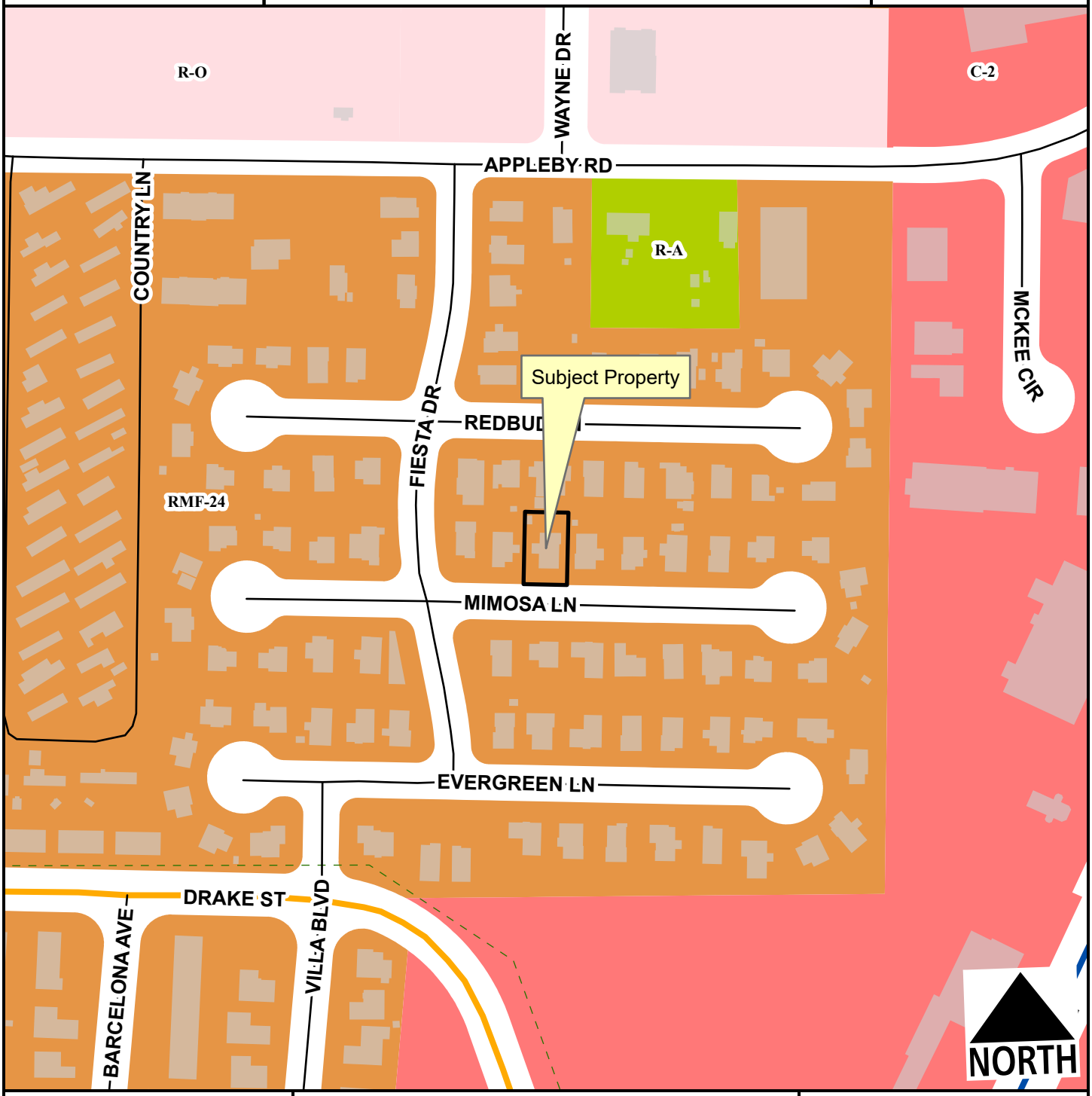
PLANNED ZONING DISTRICTS
- Commercial, Industrial, Residential

INSTITUTIONAL
- P-1

CUP-2023-0004

Close Up View

462 E. MIMOSA LN



- Neighborhood Link
- Regional Link - High Activity
- Unclassified
- Residential Link
- Planning Area
- Fayetteville City Limits
- Trail (Proposed)

Feet

0 75 150 300 450 600

1:2,400

- Residential-Agricultural
- RMF-24
- Residential-Office
- C-2

CUP-2023-0004

Current Land Use

462 E. MIMOSA LN

NORTH

- Neighborhood Link
- Regional Link - High Activity
- Unclassified
- Residential Link
- Planned Neighborhood Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits

Feet

0 112.5 225 450 675 900

1:3,600

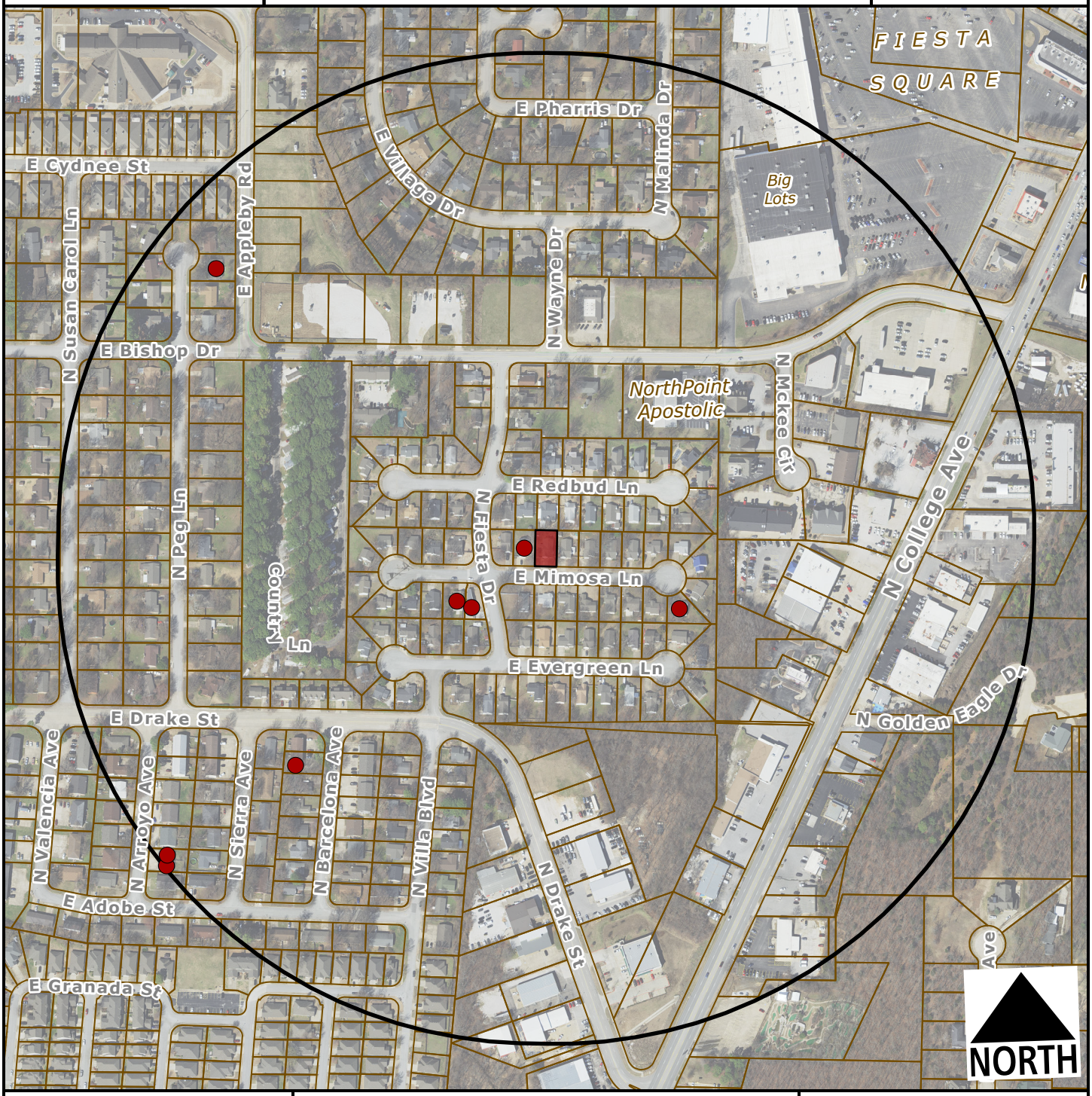
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0004

STRs Within 1/4 Mile

462 E. MIMOSA LN



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Number of STR Licenses

Contributing to 2% density cap	8
NOT contributing to 2% density cap	0
Total	**8**

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner

MEETING DATE: March 27, 2023

SUBJECT: **CUP-2023-0035: Conditional Use Permit (2110 W. LOREN CIR./HILL, 442):** Submitted by WEEKENDER MANAGEMENT for property located at 2100 W. LOREN CIR. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.30 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0035** with conditions as outlined by staff.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0035**, determining:*

- *In favor of compatibility with adjacent properties, and*
- *In favor of all other conditions as recommended by staff."*

BACKGROUND:
The property is in west Fayetteville, north of Markham Hill, roughly 500 feet west of the intersection of W. Loren Circle and N. Sang Avenue. The property totals 0.30 acres and is currently developed with a 1,597 square-foot, four-bedroom single-family dwelling which was built in 1984, according to Washington County records. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1.*

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
South	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
East	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
West	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre

City Plan 2040 Future Land Use Designation: **Residential Neighborhood Area**.

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term

rentals are subject to density limitations, including a 2% citywide cap, and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

Public Comment: Staff received public comment in opposition to the request. A neighboring property owner called expressing issues with noise associated with another short-term rental license in the neighborhood. They also expressed concerns about the frequency of transient traffic and criminal activity that could occur with a vacant dwelling.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0035,** with the following conditions;

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible with the neighborhood based on the findings in this report;*

2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in the development code.

3. Per §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within 1 year of conditional use permit approval.

4. Per ordinance, the number of occupants is limited to a maximum of two people per bedroom, plus two, for the entire unit when the property is operated as a short-term rental.

5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.

6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

7. All trash receptacles shall be screened from view of the right-of-way.

8. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.

9. Any signage shall meet the requirements as outlined in §174, Signage.

PLANNING COMMISSION ACTION: Required YES
Date: March 27, 2023 ❒ Tabled ❒ Approved ❒ Denied
Motion:
Second:
Vote:

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.

2. Decide such questions as are involved in determining whether a conditional use should be granted; and,

3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or

4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

C. A conditional use shall not be granted by the Planning Commission unless and until:

1. A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.

Finding: **The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental in the RSF-4 zoning district.**

2. The applicant shall pay a filing fee as required under Chapter 159 to cover the cost of expenses incurred in connection with processing such application.

Finding: **The applicant has paid the required filing fee.**

3. The Planning Commission shall make the following written findings before a conditional use shall be issued:

(a.) That it is empowered under the section of this chapter described in the application to grant the conditional use; and

Finding: **The Planning Commission is empowered under Unified Development Code §118.01(E)(2) to grant the requested conditional use permit.**

(b.) That the granting of the conditional use will not adversely affect the public interest.

Finding: **Staff finds that granting the requested conditional use is unlikely to negatively affect the public interest, given the applicable business license**

requirements including a required building safety inspection, and applicable density caps on Type 2 short-term rentals.

(c.) The Planning Commission shall certify:

(1.) Compliance with the specific rules governing individual conditional uses; and

Finding: There are specific rules governing Short-Term Rentals, as follows:

§163.18 - SHORT-TERM RENTALS

A. General Standards.

(1) Residential Zoning Districts. Residential Zoning Districts. Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts: R-A, RSF-.5, RSF-1, RSF-2, RSF-4, RSF-7, RSF-8, RSF-18, RI-12, Rl-U, RMF-6, RMF-12, RMF-18, RMF-24, RMF-40, NC. Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district. Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

Finding: The request is to operate a Type 2 short-term rental in RSF-4 zoning, which requires a conditional use permit.

(2) Occupancy. Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

Finding: Occupancy is limited as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. Since the dwelling has four bedrooms, the short-term rental would be limited to 10 guests.

(3) Parking. Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

Finding: Staff recommends parking is limited as described in UDC §163.18(A)(4). Single-family homes are required to provide parking at a rate of two per dwelling. In the request letter the applicant says visitors will have access to off-street parking spots for a total of four vehicles; two in the driveway and two in the attached garage. The driveway extends from W. Loren Circle and appears to be roughly 30 feet deep by 16 feet wide.

(4) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

Finding: The application letter suggests the property will comply with the City's regulations for a short-term rental. As a condition of approval, staff recommends a prohibition on special events.

(5) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

Finding: **The application is for use of the property at 2110 W. Loren Circle. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.**

(6) Exceptions. Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

Finding: **Type 2 short-term rentals are subject to a citywide density cap at 2% of total dwelling units, as determined by United States Census Bureau data. Recently released 5-year American Community Survey data from 2021 lists total housing units in Fayetteville at 44,706, which puts the cap at 894 total Type 2 short-term rentals. To date, the City has issued 314 Type 2 short-term rental licenses that are subject to this cap. Hotel and motel uses are not permitted by right in RSF-4 zoning, so this short-term rental would contribute to the city-wide density cap.**

(7) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

Finding: **This short-term rental would be subject to all regulations in City Code §118.01 that apply to Type 2 short-term rentals in residential zoning districts. Applicable business licensing requirements will be reviewed by staff and confirmed by the applicant at the time of licensing.**

(8) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

1) Adequate parking infrastructure;
2) Adequate adjoining or nearby streets for on-street parking;
3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and
4} Prior zoning or code violations.

Finding: **There appears to be adequate parking available to support the use of the property as a short-term rental. Four off-street spaces are available in the existing driveway and garage. Additional on-street parking is available along W. Loren Circle. Within ¼ mile of the property city business license records indicate there is one other Type 2 rental business license. One code case was opened at the property in 2003 for grass/weeds/trash and parking of a disabled or unlicensed vehicle. The code case was closed that year and ownership of the property has since changed.**

§163.02, AUTHORITY; CONDITIONS; PROCEDURES. (continued)

(2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:

(a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: **The subject property has frontage along W. Loren Circle, which is classified as a Residential Link Street. Access is provided through a 16 foot-wide driveway that is approximately 30-feet deep. Staff finds that the proposal will not adversely affect traffic flows since the property fronts onto a low-volume, Residential Link Street. Also, considering the use of the property would be limited to a maximum of ten guests, the parking demand would not be out of character with use of the property for residential purposes. Sidewalks are present at the back of curb along W. Loren Circle.**

(b.) Off-street parking and loading areas where required, with particular attention to ingress and egress, economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

Finding: **The applicant has indicated that there is space for four off-street guest vehicle parking spaces available. The applicant's request letter says they will discourage on-street parking. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.**

(c.) Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading,

Finding: **The applicant proposes to utilize existing residential trash cart service. Staff recommends that the containers should be screened from public view when not at the curb for residential pick-up.**

(d.) Utilities, with reference to locations, availability, and compatibility;

Finding: **Utilities are currently available to the site and the use as a short-term rental is not anticipated to impact the provision of utilities.**

(e.) Screening and buffering with reference to type, dimensions, and character;

Finding: **Staff recommends that residential carts be screened so that they are not visible from the public right-of-way.**

(f.) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

Finding: **Any proposed signage will be subject to Unified Development Code section 174 – Signs, and all the regulations therein.**

(g.) Required yards and other open space; and

Finding: **Based on the applicant's submittal, the structure appears to be meeting relevant setbacks.**

(h.) General compatibility with adjacent properties and other property in the district.

Finding: **Staff finds the use to be compatible with surrounding properties. The property appears to have adequate parking to accommodate overnight guests, trash containers are screened, and minimal disruptions are expected for neighbors.**

BUDGET/STAFF IMPACT:
None

Attachments:

- Business Regulations
  - §118.01 Applicability
- Unified Development Code
  - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
  - §161.08 District RSF-4, Residential Single-Family, 4 Units per Acre
- Applicant Request Letter
- Site Plan
- Floor Plans
- Elevations
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs Within ¼ Mile Map

118.01 Applicability

(E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.

(1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.

(2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.

(3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:

(a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
(b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
(c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.

(4) A separate business license shall be required for each dwelling unit used as a short-term rental.

(5) Any change in ownership requires a new or amended business license.

(6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.

(7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:

(a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
(b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
(c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
(d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
(e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
(f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
(g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.

(8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).

(11) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:

(a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
(b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
(c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.

(10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate

compliance with this section. For the purposes of these regulations, 'availability' means that the owner or agent is accessible by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.

(11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.

(12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.

(13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.

(14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.

(15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).

(16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 2% of all dwelling units in the Fayetteville city limits may be utilized as Type 2 rentals. Total dwelling units are determined from current United States Census Bureau and/or American Community Survey numbers, whichever number is higher. A conditional use permit may not permit:

(a) More Type 2 short-term rentals than what is allowed by the city-wide density cap. Type 2 short-term rentals in commercial and mixed-use zoning districts where hotel/motels are permitted by right shall not contribute to the city-wide density cap.
(b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
(c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
(d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.

(17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.

(20) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

(Ord. No. 6427 , §§1(Exh. A), 2, 4-20-21; Ord. No. 6505 , §1(Exh. A), 11-16-21; Ord. No. 6521 , §§1, 2, 1-18-22; Ord. No. 6537 , §1(Exh. A), 2-15-22)

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

(A) *Residential Zoning Districts.* Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts:

1) R-A
2) RSF-.5
3) RSF-1
4) RSF-2
5) RSF-4
6) RSF-7
7) RSF-8
8) RSF-18
9) RI-12
10) RI-U
11) RMF-6
12) RMF-12
13) RMF-18
14) RMF-24
15) RMF-40
16) NC

Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district.

Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

(B) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

(C) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

(D) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

(E) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

(F) *Exceptions.* Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

(G) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

(H) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

1) Adequate parking infrastructure;

2) Adequate adjoining or nearby streets for on-street parking;

3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and

4) Prior zoning or code violations

(Ord. No. 6427 , §§1(Exh. E), 2, 4-20-21; Ord. No. 6505 , §2(Exh. B), 11-16-21; Ord. No. 6537 , §2(Exh. B), 2-15-22)

161.07 District RSF-4, Residential Single-Family - Four (4) Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted Uses*.

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings
Unit 46	Short-term rentals

(2) *Conditional Uses*.

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 9	Two-family dwellings
Unit 12a	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities
Unit 44	Cluster Housing Development

(C) *Density.*

	Single-family dwellings	Two (2) family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and Area Regulations.*

	Single-family dwellings	Two (2) family dwellings
Lot minimum width	70 feet	80 feet
Lot area minimum	8,000 square feet	12,000 square feet
Land area per dwelling unit	8,000 square feet	6,000 square feet
Hillside Overlay District Lot minimum width	60 feet	70 feet
Hillside Overlay District Lot area minimum	8,000 square feet	12,000 square feet
Land area per dwelling unit	8,000 square feet	6,000 square feet

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations*.

Building Height Maximum	3 stories

(G) *Building Area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot. Accessory ground mounted solar energy systems shall not be considered buildings.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 4858, 4-18-06; Ord. No. 5028, 6-19-07; Ord. No. 5128, 4-15-08; Ord. No. 5224, 3-3-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5921 , §1, 11-1-16; Ord. No. 5945 , §8, 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6245 , §2, 10-15-19; Ord. No. 6427 , §§1(Exh. C), 2, 4-20-21)

Ord. No. 6427 , § 2, adopted April 20, 2021, "determines that this ordinance and all amendments to Code sections ordained or enacted by this ordinance shall automatically sunset, be repealed, terminated, and become void twenty (20) months after the passage and approval of this ordinance, unless prior to that date, the City Council amends this ordinance to repeal this sunset, repeal and termination section."

Weekender Management, Inc.
1202 NE McClain Rd, Bldg 7
Bentonville, AR 72712
www.weekendermanagement.com
(479) 364-6756
garrett@weekendermanagement.com

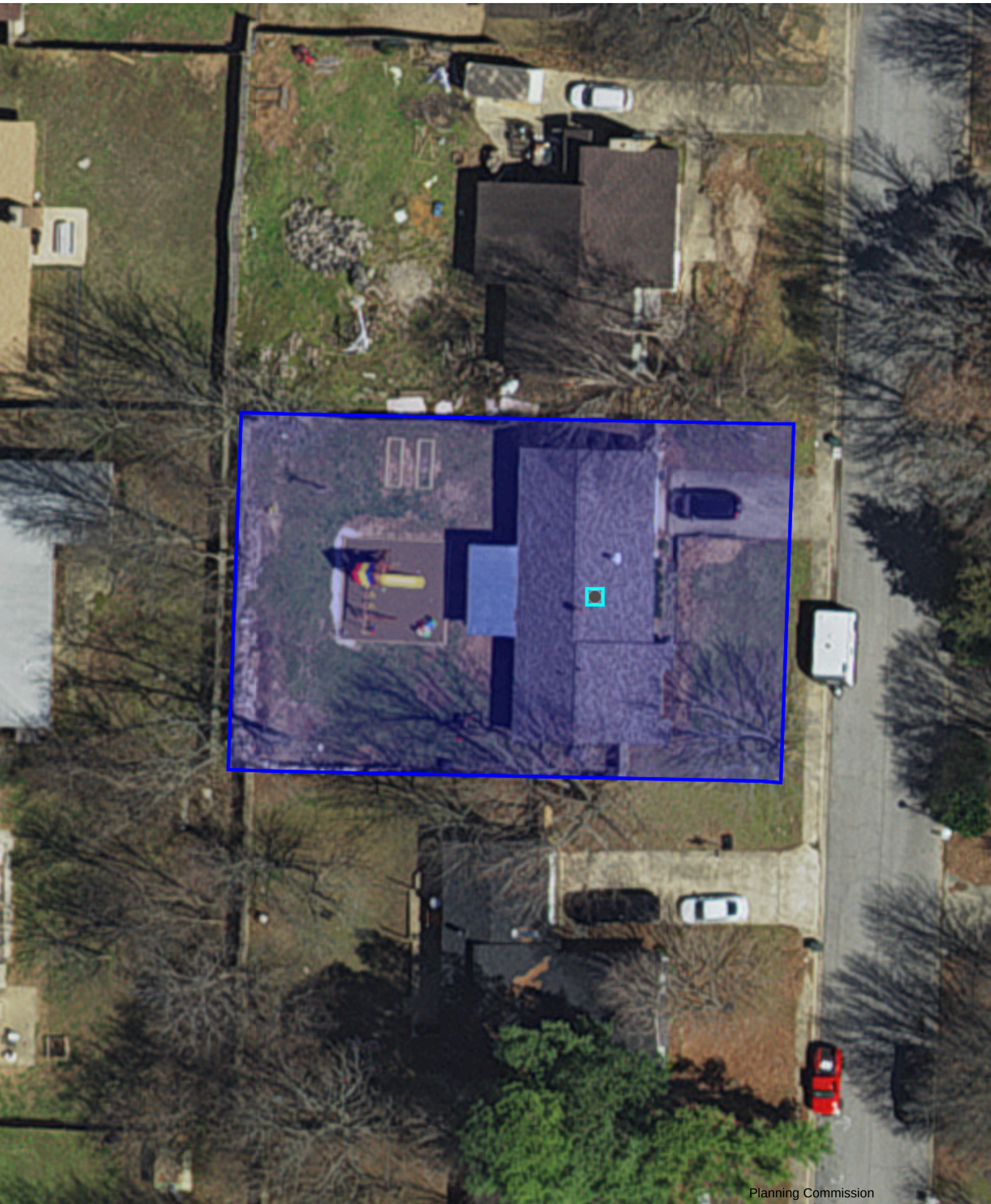
To the Fayetteville Planning Commission:

1. Payment made in full
2. Residential Single-Family – Four Units per Acre, 2110 West Loren Circle.
3. On behalf of the property owner, we are applying for a conditional use permit from the city of Fayetteville. We are seeking to obtain a short-term rental Type 2 permit. Neither we nor the owner will be residing in the residence. The property will be used for a nightly rental.
    a. The home is 1,597 square feet.
    b. The home is one floor. It contains a kitchen, a living space, and four bedrooms.
    c. The home has a two car garage plus a driveway that has sufficient room to park an additional two cars. This is where we anticipate guests parking. We do not plan to allow our guests to park on the street.
    d. This home will not have operating hours or employees. It will be in use whenever it is being rented. In accordance with the property's size and Fayetteville city ordinances, we will limit the number of guests that can stay on the property to ten.
    e. Outdoor lighting: There is an exterior light at the front door, over the garage, as well as exterior lighting in the rear of the home.
    f. The property will be used for short stays of 1–10 people, so the noise level should be minimal. We also intend to install noise monitors on the property, so that we can immediately respond should any guest become too noisy.
    g. This is a single-family home sitting on its own plot of land, thereby diminishing the possibility of disturbance to neighbors.
    h. The city currently services the solid waste needs of the property. We plan to continue this service and do not anticipate this property needing any services beyond what is typical for other single-family homes in the area.
    i. West Loren Circle provides ingress and egress to the property. The property does not add additional traffic on the road because guests will be limited to ten at a maximum and a maximum of four cars.
4. The site plan is attached as a separate document.
5. The floor plan is attached as a separate document.
6. A copy of the county parcel map from the Washington County Assessor's office website is attached as a separate document.
7. The signed document authorizing us to act on behalf of the owner is attached as a separate document.

Very Respectfully,

Richard Garrett Ham

Richard "Garrett" Ham, Jr.
Principal Broker and CEO



DataScout, LLC

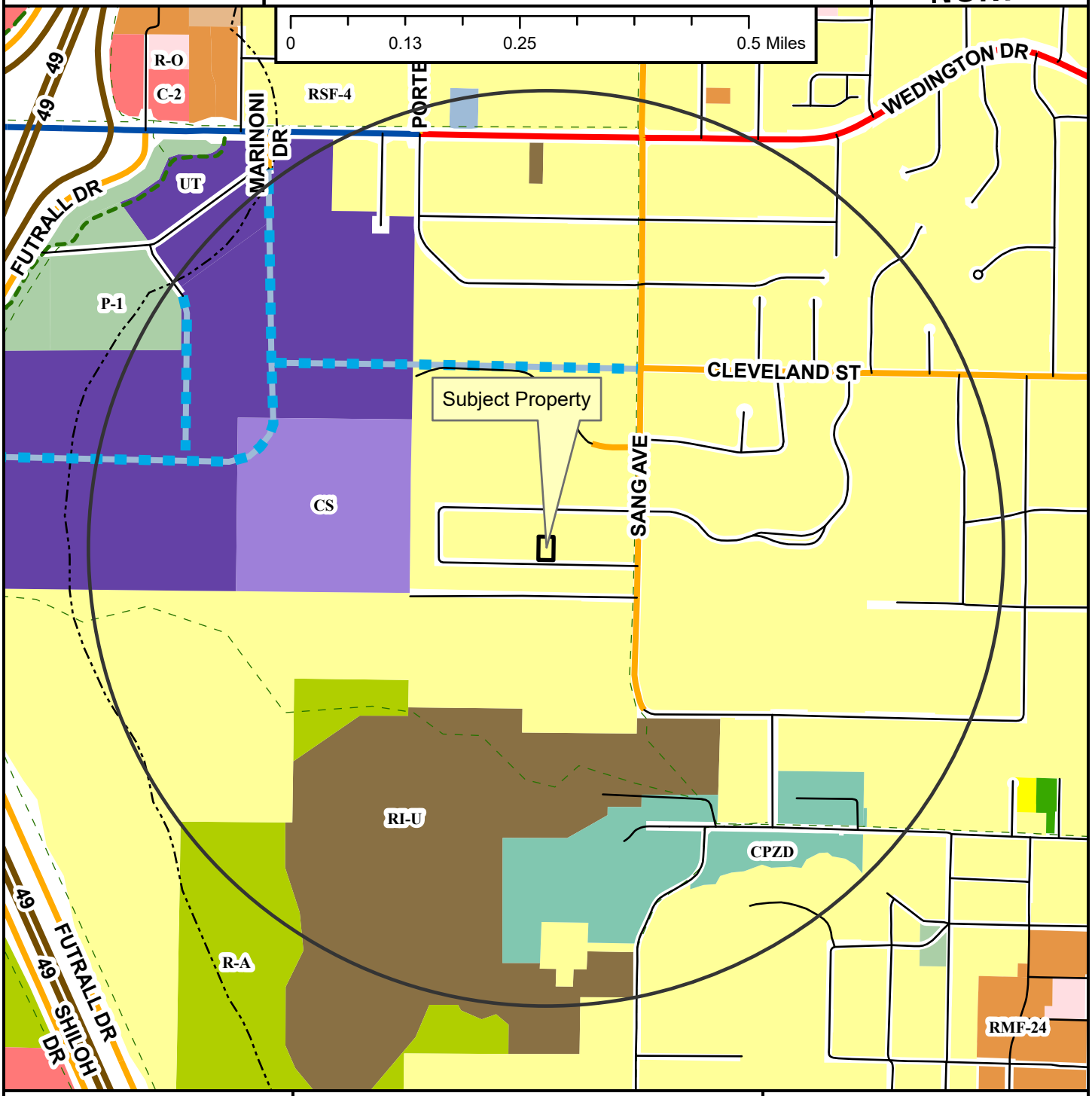
2110

CUP-2023-0035

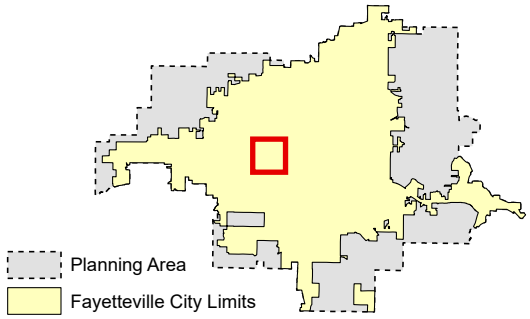
One Mile View

2110 W. LOREN CIR.

NORTH



Regional Link
Neighborhood Link
Institutional Master Plan
Regional Link - High Activity
Freeway/Expressway
Unclassified
Alley
Residential Link
Planned Residential Link
Shared-Use Paved Trail
Trail (Proposed)
Design Overlay District
Fayetteville City Limits
Planning Area



Zoning

RESIDENTIAL SINGLE-FAMILY
NS-G
RI-U
RI-12
NS-L
Residential-Agricultural
RSF-.5
RSF-1
RSF-2
RSF-4
RSF-7
RSF-8
RSF-18

RESIDENTIAL MULTI-FAMILY
RMF-6
RMF-12
RMF-18
RMF-24
RMF-40

INDUSTRIAL
I-1 Heavy Commercial and Light Industrial
I-2 General Industrial

EXTRACTION
E-1

COMMERCIAL
Residential-Office
C-1
C-2
C-3

FORM BASED DISTRICTS
Downtown Core
Urban Thoroughfare
Main Street Center
Downtown General
Community Services
Neighborhood Services
Neighborhood Conservation

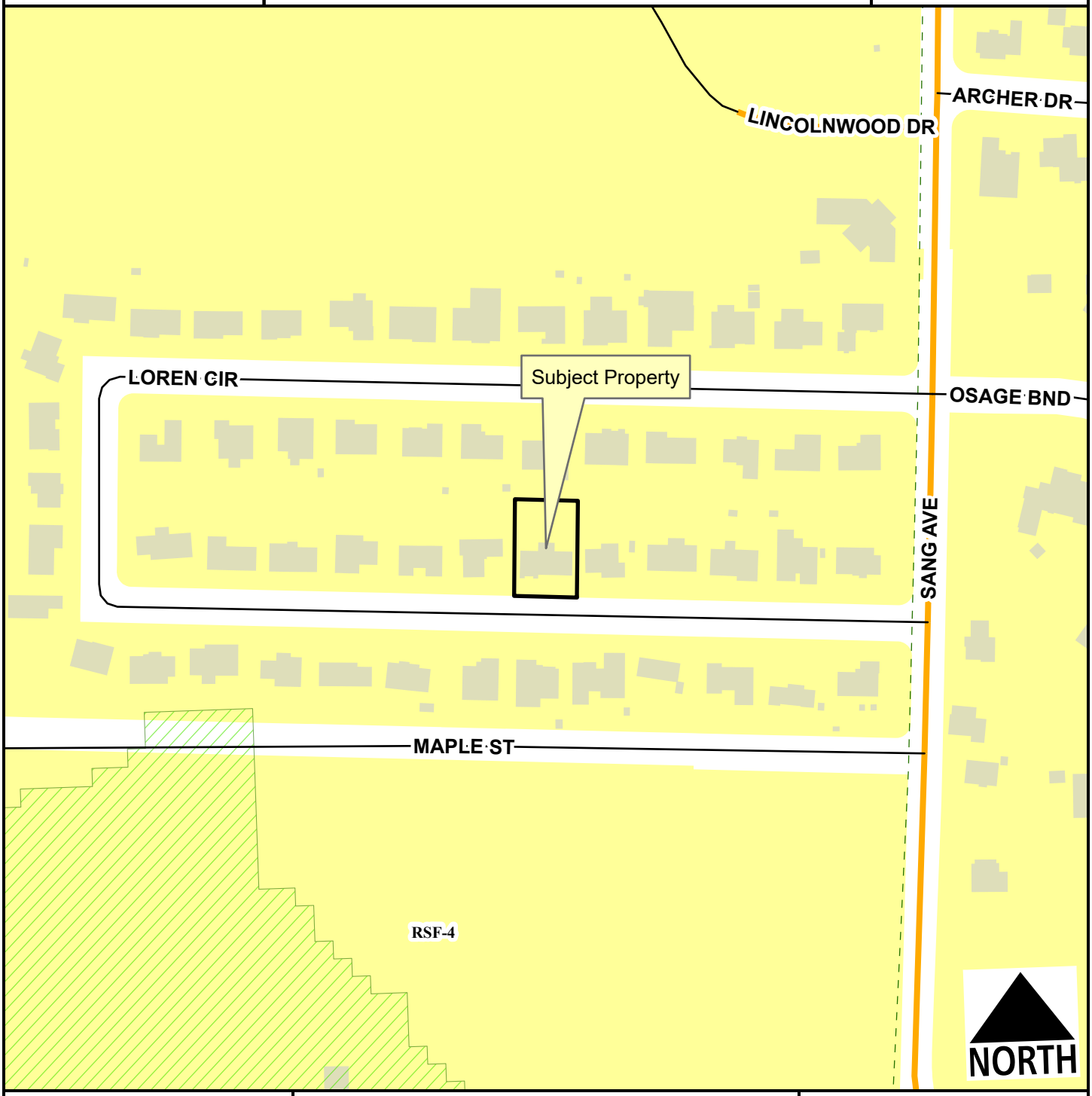
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

CUP-2023-0035

Close Up View

2110 W. LOREN CIR.



Neighborhood Link
Residential Link
Hillside-Hilltop Overlay District
Planning Area
Fayetteville City Limits
Trail (Proposed)

Feet
0 75 150 300 450 600
1:2,400

RSF-4

CUP-2023-0035

Current Land Use

2110 W. LOREN CIR.

NORTH

- Neighborhood Link
- Residential Link
- Planned Residential Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits

Feet

0 112.5 225 450 675 900

1:3,600

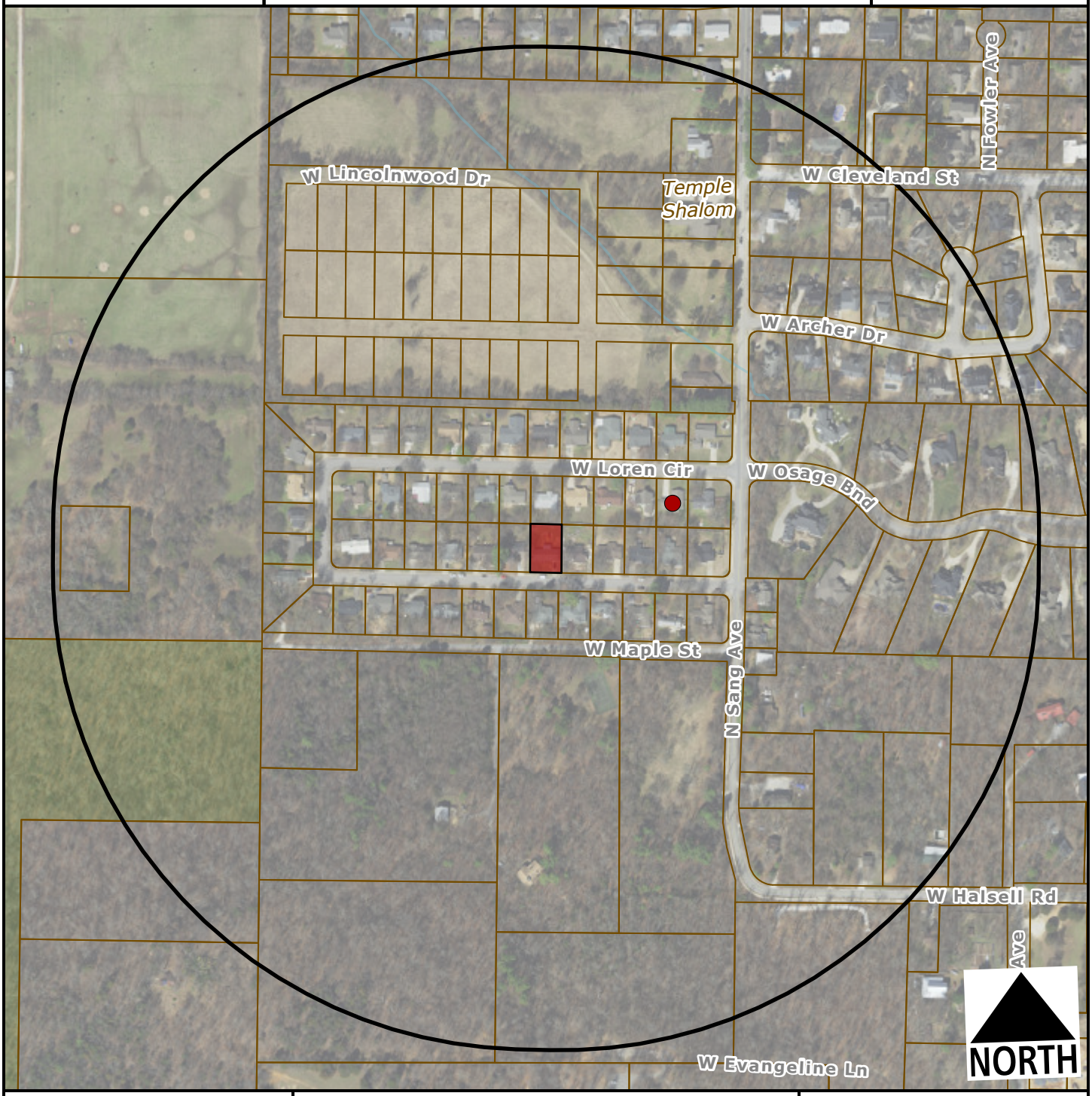
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0035

STRs Within 1/4 Mile

2110 W. LOREN CIR.



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Number of STR Licenses

Contributing to 2% density cap	1
NOT contributing to 2% density cap	0
Total	**1**

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner

MEETING DATE: March 27, 2023

SUBJECT: **CUP-2023-0036: Conditional Use Permit (724 E. LAFAYETTE ST./HILL, 486):** Submitted by HIMALAYAN MOUNTAIN SHOP for property located at 724 E. LAFAYETTE ST. The property is zoned RMF-6, RESIDENTIAL MULTI-FAMILY, SIX UNITS PER ACRE and contains approximately 0.30 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0036** with conditions as outlined by staff.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0036**, determining:*

- *In favor of compatibility with adjacent properties, and*
- *In favor of all other conditions as recommended by staff."*

BACKGROUND:
The property is in central Fayetteville, on the north slope of Mt. Sequoyah, and roughly 500 feet east of the intersection of N. Mission Boulevard and E. Lafayette Street on the north side of Lafayette. The property totals 0.30 acres and is currently developed with a 1,437 square-foot, three-bedroom single-family dwelling which was built in 1984, according to Washington County records. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1.*

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Storage Yard	I-1, Heavy Commercial and Light Industrial
South	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
East	Single-Family Residential	RMF-6, Residential Multi-Family, 6 Units per Acre
West	Single-Family Residential	RMF-6, Residential Multi-Family, 6 Units per Acre

City Plan 2040 Future Land Use Designation: **Residential Neighborhood Area**.

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term

rentals are subject to density limitations, including a 2% citywide cap, and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

Public Comment: Staff has not received any public comment regarding this request.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0036,** with the following conditions;

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible with the neighborhood based on the findings in this report;*

2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in the development code.

3. Per §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within 1 year of conditional use permit approval.

4. Per ordinance, the number of occupants is limited to a maximum of two people per bedroom, plus two, for the entire unit when the property is operated as a short-term rental.

5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.

6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

7. All trash receptacles shall be screened from view of the right-of-way.

8. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.

9. Any signage shall meet the requirements as outlined in §174, Signage.

PLANNING COMMISSION ACTION:	**Required**	**YES**	
Date: March 27, 2023	**❒ Tabled**	**❒ Approved**	**❒ Denied**
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.

2. Decide such questions as are involved in determining whether a conditional use should be granted; and,

3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or

4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

C. A conditional use shall not be granted by the Planning Commission unless and until:

1. A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.

Finding: **The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental in the RMF-6 zoning district.**

2. The applicant shall pay a filing fee as required under Chapter 159 to cover the cost of expenses incurred in connection with processing such application.

Finding: **The applicant has paid the required filing fee.**

3. The Planning Commission shall make the following written findings before a conditional use shall be issued:

(a.) That it is empowered under the section of this chapter described in the application to grant the conditional use; and

Finding: **The Planning Commission is empowered under Unified Development Code §118.01(E)(2) to grant the requested conditional use permit.**

(b.) That the granting of the conditional use will not adversely affect the public interest.

Finding: **Staff finds that granting the requested conditional use is unlikely to negatively affect the public interest, given the applicable business license requirements including a required building safety inspection, and applicable density caps on Type 2 short-term rentals.**

(c.) The Planning Commission shall certify:

(1.) Compliance with the specific rules governing individual conditional uses; and

Finding: There are specific rules governing Short-Term Rentals, as follows:

§163.18 - SHORT-TERM RENTALS

A. General Standards.

(1) Residential Zoning Districts. Residential Zoning Districts. Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts: R-A, RSF-.5, RSF-1, RSF-2, RSF-4, RSF-7, RSF-8, RSF-18, RI-12, RI-U, RMF-6, RMF-12, RMF-18, RMF-24, RMF-40, NC. Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district. Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

Finding: The request is to operate a Type 2 short-term rental in RMF-6 zoning, which requires a conditional use permit.

(2) Occupancy. Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

Finding: Occupancy is limited as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. Since the dwelling has three bedrooms, the short-term rental would be limited to eight guests.

(3) Parking. Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

Finding: Staff recommends parking is limited as described in UDC §163.18(A)(4). Single-family homes are required to provide parking at a rate of two per dwelling. In the request letter the applicant says visitors will have access to five off-street parking spots; one in an existing garage and four in the driveway. The driveway extends from E. Lafayette Street and appears to be roughly 26 feet deep by 19 feet wide.

(4) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

Finding: The application letter suggests the property will comply with the City's regulations for a short-term rental. As a condition of approval, staff recommends a prohibition on special events.

(5) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

Finding: **The application is for use of the property at 724 E. Lafayette Street. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.**

(6) Exceptions. Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

Finding: **Type 2 short-term rentals are subject to a citywide density cap at 2% of total dwelling units, as determined by United States Census Bureau data. Recently released 5-year American Community Survey data from 2021 lists total housing units in Fayetteville at 44,706, which puts the cap at 894 total Type 2 short-term rentals. To date, the City has issued 314 Type 2 short-term rental licenses that are subject to this cap. Hotel and motel uses are not permitted by right in RMF-6 zoning, so this short-term rental would contribute to the city-wide density cap.**

(7) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

Finding: **This short-term rental would be subject to all regulations in City Code §118.01 that apply to Type 2 short-term rentals in residential zoning districts. Applicable business licensing requirements will be reviewed by staff and confirmed by the applicant at the time of licensing.**

(8) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

1) Adequate parking infrastructure;
2) Adequate adjoining or nearby streets for on-street parking;
3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and
4} Prior zoning or code violations.

Finding: **There appears to be adequate parking available to support the use of the property as a short-term rental. Five off-street spaces are available in the existing driveway and garage. The paved width of the street does not appear to be adequate to accommodate on-street parking; emergency services typically require a 26-foot-wide street. Within ¼ mile of the property city business license records indicate there are three Type 2 rental business licenses. Code cases were opened at the address in 2005 and 2016. In 2005 an inoperable vehicle was reported however, after multiple inspections, the case was closed as unfounded. In 2016 a code case was opened for overgrown grass. The issue was corrected within two weeks and the case was resolved. The current owners purchased the house in 2014, according to Washington County records.**

§163.02, AUTHORITY; CONDITIONS; PROCEDURES. (continued)

(2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:

(a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: **The subject property has frontage along E. Lafayette Street, which is classified as a Residential Link Street. Access is provided through a 19 foot-wide driveway that is approximately 26-feet deep. Staff finds that the proposal will not adversely affect traffic flows since the property fronts onto a low-volume, Residential Link Street. Also, considering the use of the property would be limited to a maximum of eight guests, the parking demand would not be out of character with use of the property for residential purposes. Sidewalks are not present along E. Lafayette Street on the block.**

(b.) Off-street parking and loading areas where required, with particular attention to ingress and egress, economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

Finding: **The applicant has indicated that there is space for five off-street guest vehicle parking spaces available. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.**

(c.) Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading,

Finding: **The applicant proposes to utilize existing residential trash cart service. Staff recommends that the containers should be screened from public view when not at the curb for residential pick-up.**

(d.) Utilities, with reference to locations, availability, and compatibility;

Finding: **Utilities are currently available to the site and the use as a short-term rental is not anticipated to impact the provision of utilities.**

(e.) Screening and buffering with reference to type, dimensions, and character;

Finding: **Staff recommends that residential carts be screened so that they are not visible from the public right-of-way.**

(f.) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect,

and compatibility and harmony with properties in the district;

Finding: **Any proposed signage will be subject to Unified Development Code section 174 – Signs, and all the regulations therein.**

(g.) Required yards and other open space; and

Finding: **The structure appears to be located outside of the build-to zone but otherwise meet setback and other zoning requirements. Given the age of the structure, it is considered legal non-conforming.**

(h.) General compatibility with adjacent properties and other property in the district.

Finding: **Staff finds the use to be compatible with surrounding properties. The property appears to have adequate parking to accommodate overnight guests, trash containers are screened, and minimal disruptions are expected for neighbors.**

BUDGET/STAFF IMPACT:
None

Attachments:

- Business Regulations
  - §118.01 Applicability
- Unified Development Code
  - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
  - §161.08 District RMF-6, Residential Multi-Family, 6 Units per Acre
- Applicant Request Letter
- Site Plan
- Floor Plans
- Elevations
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs Within ¼ Mile Map

118.01 Applicability

(E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.

(1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.

(2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.

(3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:

(a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
(b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
(c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.

(4) A separate business license shall be required for each dwelling unit used as a short-term rental.

(5) Any change in ownership requires a new or amended business license.

(6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.

(7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:

(a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
(b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
(c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
(d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
(e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
(f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
(g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.

(8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).

(11) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:

(a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
(b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
(c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.

(10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate

compliance with this section. For the purposes of these regulations, 'availability' means that the owner or agent is accessible by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.

(11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.

(12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.

(13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.

(14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.

(15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).

(16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 2% of all dwelling units in the Fayetteville city limits may be utilized as Type 2 rentals. Total dwelling units are determined from current United States Census Bureau and/or American Community Survey numbers, whichever number is higher. A conditional use permit may not permit:

(a) More Type 2 short-term rentals than what is allowed by the city-wide density cap. Type 2 short-term rentals in commercial and mixed-use zoning districts where hotel/motels are permitted by right shall not contribute to the city-wide density cap.
(b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
(c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
(d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.

(17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.

(20) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

(Ord. No. 6427 , §§1(Exh. A), 2, 4-20-21; Ord. No. 6505 , §1(Exh. A), 11-16-21; Ord. No. 6521 , §§1, 2, 1-18-22; Ord. No. 6537 , §1(Exh. A), 2-15-22)

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

(A) *Residential Zoning Districts.* Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts:

1) R-A
2) RSF-.5
3) RSF-1
4) RSF-2
5) RSF-4
6) RSF-7
7) RSF-8
8) RSF-18
9) RI-12
10) RI-U
11) RMF-6
12) RMF-12
13) RMF-18
14) RMF-24
15) RMF-40
16) NC

Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district.

Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

(B) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

(C) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

(D) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

(E) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

(F) *Exceptions.* Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

(G) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

(H) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

1) Adequate parking infrastructure;

2) Adequate adjoining or nearby streets for on-street parking;

3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and

4) Prior zoning or code violations

(Ord. No. 6427 , §§1(Exh. E), 2, 4-20-21; Ord. No. 6505 , §2(Exh. B), 11-16-21; Ord. No. 6537 , §2(Exh. B), 2-15-22)

161.13 District RMF-6, Residential Multi-Family—Six (6) Units Per Acre

(A) *Purpose.* The RMF-6 Multi-family Residential District is designed to permit and encourage the development of multi-family residences at a low density that is appropriate to the area and can serve as a transition between higher densities and single-family residential areas.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 26	Multi-family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 11	Manufactured home park
Unit 12a	Limited business
Unit 24	Home occupations
Unit 25	Professional offices
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	6 or less

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Manufactured home park	100 feet
Lot within a manufactured home park	50 feet
Single-family	50 feet
Two (2) family	50 feet
Three and more	90 feet
Professional offices	100 feet

(2) *Lot Area Minimum.*

Manufactured home park	3 acres
Lot within a Manufactured home park	4,200 square feet
Townhouse: Individual lot	2,500 square feet
Single-family	6,000 square feet
Two-family	7,000 square feet
Three or more	9,000 square feet
Fraternity or Sorority	2 acres
Professional offices	1 acre

(E) *Setback Requirements.*

Front	Side Other Uses	Side Single & Two (2) Family	Rear Other Uses	Rear Single Family
A build-to zone that is located between the front property line and a line 25 feet from the front property line.	8 feet	5 feet	25 feet	5 feet

(F) *Building Height Regulations.*

Building height maximum	2 stories/3 stories*

* A building or a portion of a building that is located between 0 and 10 feet from the front property line or any master street plan right-of-way line shall have a maximum height of two (2) stories. Buildings or portions of the building set back greater than 10 feet from the master street plan right-of-way shall have a maximum height of three (3) stories.

If a building exceeds the height of two (2) stories, the portion of the building that exceeds two (2) stories shall have an additional setback from any side boundary line of an adjacent single family district. The amount of additional setback for the portion of the building over two (2) stories shall be equal to the difference between the total height of that portion of the building, and two (2) stories.

(G) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area. Accessory ground mounted solar energy systems shall not be considered buildings.

(H) *Minimum Buildable Street Frontage.* 50% of the lot width.

(Ord. No. 4325, 7-3-01; Ord. No. 5028, 6-19-07; Ord. No. 5224, 3-3-09; Ord. No. 5262, 8-4-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 06-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5800 , §1(Exh. A), 10-6-15; Ord. No. 5921 , §1, 11-1-16; Ord. No. 5945 , §§5, 8, 9, 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6245 , §2, 10-15-19; Ord. No. 6427 , §§1(Exh. C), 2, 4-20-21)

Ord. No. 6427 , § 2, adopted April 20, 2021, "determines that this ordinance and all amendments to Code sections ordained or enacted by this ordinance shall automatically sunset, be repealed, terminated, and become void twenty (20) months after the passage and approval of this ordinance, unless prior to that date, the City Council amends this ordinance to repeal this sunset, repeal and termination section."

February 14, 2023

City of Fayetteville Planning Commission
Fayetteville, AR

Reference: Requesting a Type-Two Conditional Use Permit for 724 East Lafayette Street to be used as a short term rental

Dear City of Fayetteville Planning Commission,

We have own the property at 724 East Lafayette Street in Fayetteville Arkansas since 2014 and have rented it to University of Arkansas students since that time. The house was a rental when we purchased it from the previous owners. We decided to renovate the house and create a short-term rental and are requesting a condition use permit to operate a short-term rental. The following is the information you requested:

(***a) Building size in square feet;*** existing size of the rental space is 1437 square feet. The house has three bedrooms and two bathrooms. The kitchen, dining, and living room have an open floor design and there is a separate room that serves as another living room/den. There are a back porch and a front porch. There are an additional 271 square feet of storage under the house that will not be part of the rental. There is a garage that is an additional 300 square feet that can serve as a parking space.

(b) Color elevations of all exterior sides of the structure; the house is painted white with walnut color accents including the posts, front door, and garage. See photos provided.

(c) Number of off-street parking spaces to be provided / number required. There are five off-street parking spaces, one being the garage and the driveway can easily fit four cars.

(d) When request applies to a business... N/A

(e) Outdoor lighting; There is a front porch light, a front door light, a back porch light, a side porch light and a back yard light.

(f) Noise. We will not allow parties and there will be no tolerance of disturbing neighbors. We live close by, so we can respond if there is a problem.

(g) Screening or buffering from adjacent properties; there are shrubs along the right side of the house that extend from the street through the backyard. On the left side, there are a series of shrubs. The house is designed for privacy with the two porches facing away from the adjacent houses. There is only a small bathroom window on the side with the master bedroom (west side).

(h) Trash and refuse service (with particular reference to visibility from the street and adjacent properties). The trash and recycle containers will be kept in the garage and taken to the street on the appropriate day.

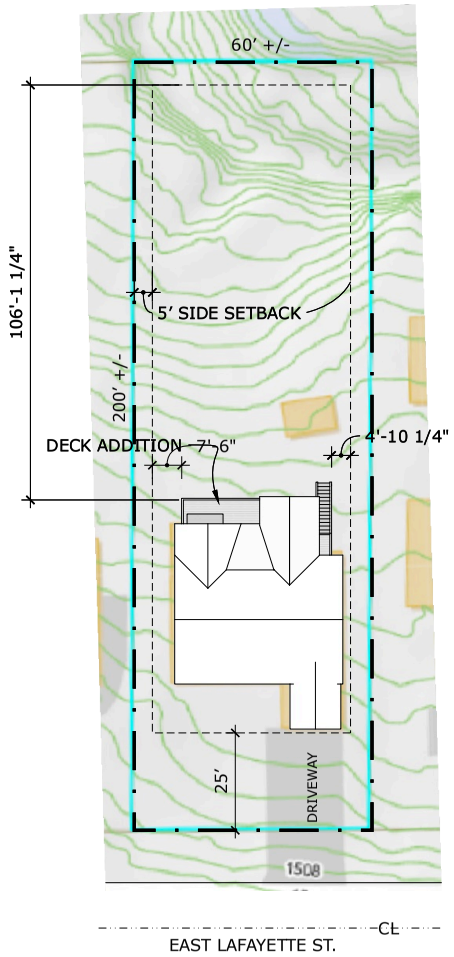
(i) Ingress and egress to the property; traffic impacts There is a driveway that is part of the property that is directly connected to the street. We expect less vehicles and traffic when compared to the previous long-term rental produced.

(j) A response discussing the general compatibility of the proposed use with adjacent properties and other property in the neighborhood. There are three houses across the street from us that are rentals and have been rentals for a long time. There is a small apartment complex three properties-down from our house that has four apartments. When we purchased the house in 2014, it was being used as a rental. Our renovation of the house is an improvement to the property and the neighborhood. The majority of the homes on this street have not been renovated in recent times. Creating a short-term rental will be an improvement over long-term rentals to students. We will be keeping the property and the home clean and maintained verses relying on renters to do so. Many of the properties on this street are rentals, so our proposed use as a short-term rental fits with the neighborhood.

Please let us know if you need additional information.

Thank you,

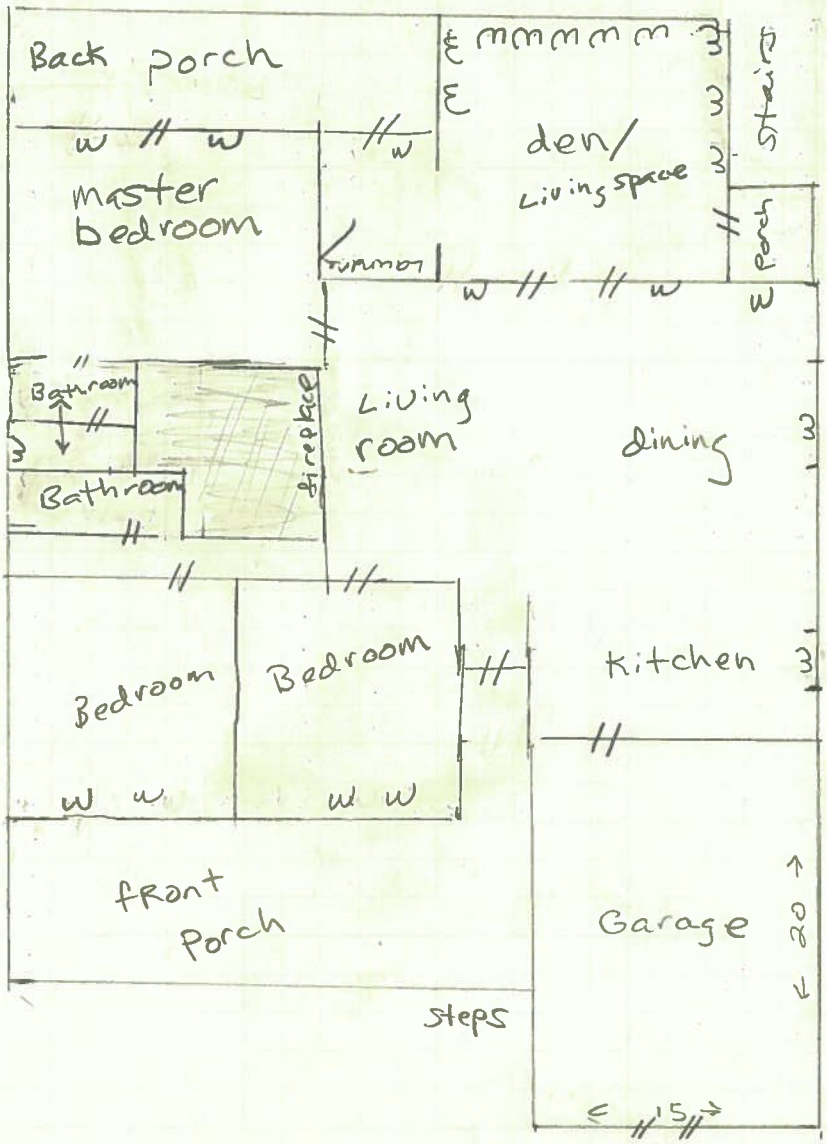
Thinley Rapke Sandi J. Formica



1/1 SITE PLAN

SCALE : 1" = 30'

724 E. Lafayette Floor plan



* Square footage for Rental is 1437 ft²

* garage is 300 ft²

* storage is 271 ft² (not shown)

w - window

// - door

1 square = 2 ft

Building Elevations: 724 E Lafayette Street

Front of House

Building Elevations: 724 E Lafayette Street

Top is East Side of House; Bottom is West Side of House

Building Elevations: 724 E Lafayette Street

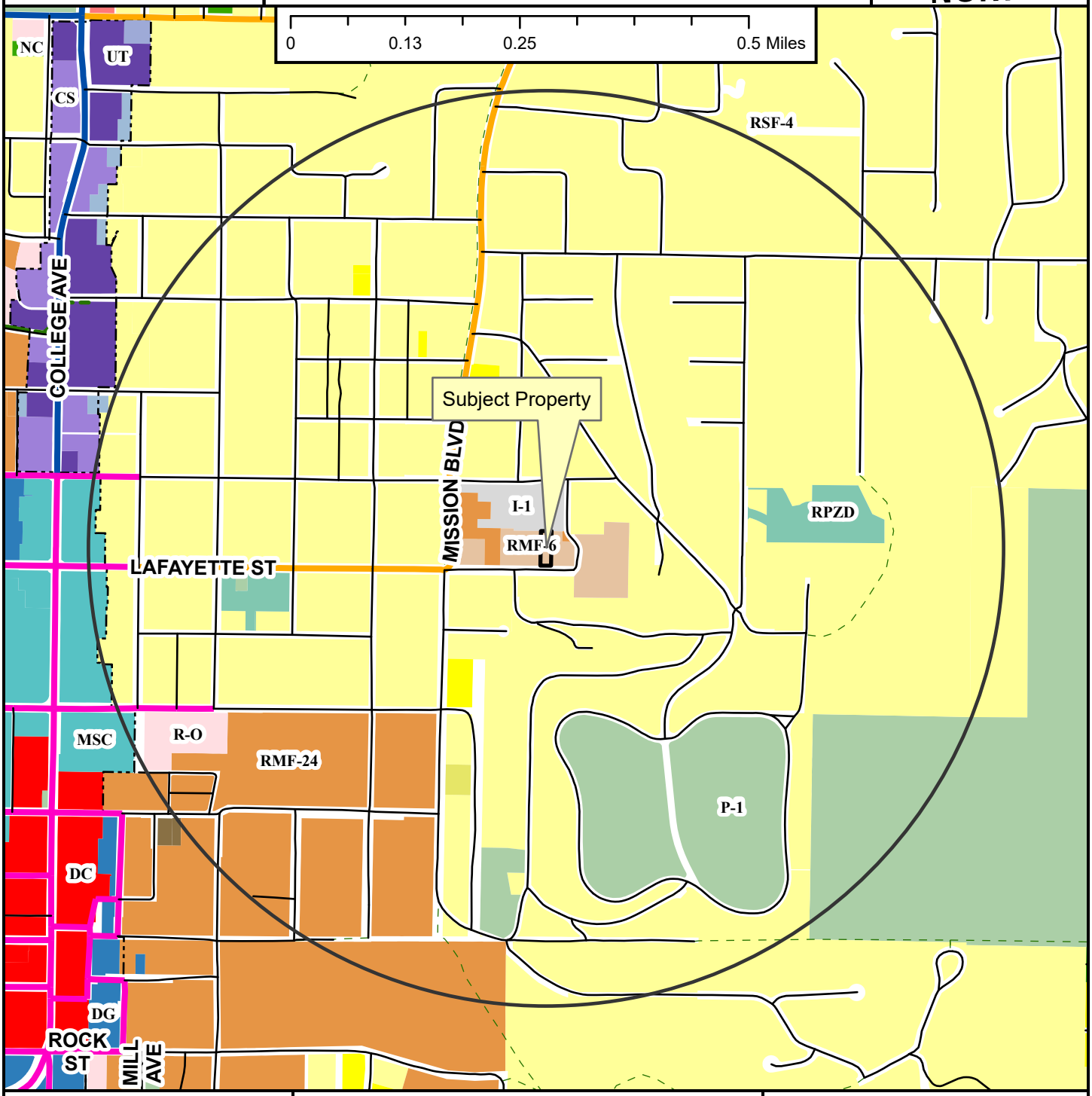
Back Side of House

CUP-2023-0036

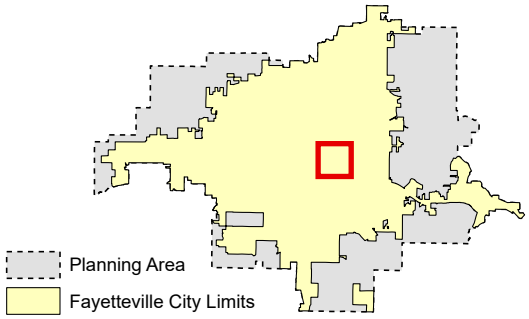
One Mile View

724 E LAFAYETTE ST

NORTH



- Neighborhood Link
- Regional Link - High Activity
- Urban Center
- Unclassified
- Alley
- Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Fayetteville City Limits
- Planning Area



Zoning

RESIDENTIAL SINGLE-FAMILY
NS-G
RI-U
RI-12
NS-L
Residential-Agricultural
RSF-.5
RSF-1
RSF-2
RSF-4
RSF-7
RSF-8
RSF-18

RESIDENTIAL MULTI-FAMILY
RMF-6
RMF-12
RMF-18
RMF-24
RMF-40

INDUSTRIAL
I-1 Heavy Commercial and Light Industrial
I-2 General Industrial

EXTRACTION
E-1

COMMERCIAL
Residential-Office
C-1
C-2
C-3

FORM BASED DISTRICTS
Downtown Core
Urban Thoroughfare
Main Street Center
Downtown General
Community Services
Neighborhood Services
Neighborhood Conservation

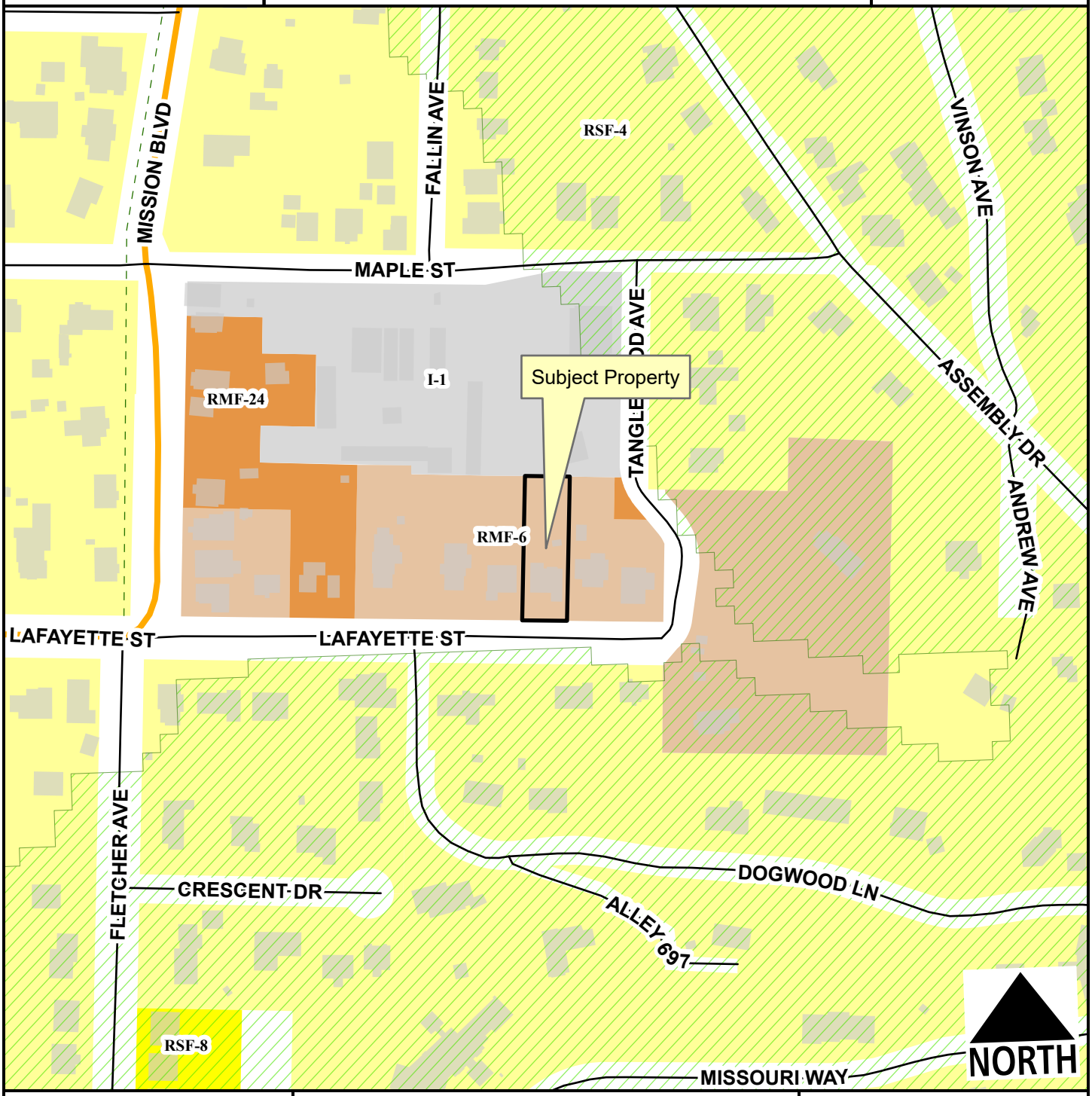
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

CUP-2023-0036

Close Up View

724 E LAFAYETTE ST



Neighborhood Link
Alley
Residential Link
Hillside-Hilltop Overlay District
Planning Area
Fayetteville City Limits
Trail (Proposed)

Feet

0 75 150 300 450 600

1:2,400

RSF-4
RSF-8
RMF-6
RMF-24
I-1 Heavy Commercial and Light Industrial

CUP-2023-0036

Current Land Use

724 E LAFAYETTE ST

NORTH

- Neighborhood Link
- Alley
- Residential Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits

Feet

0 112.5 225 450 675 900

1:3,600

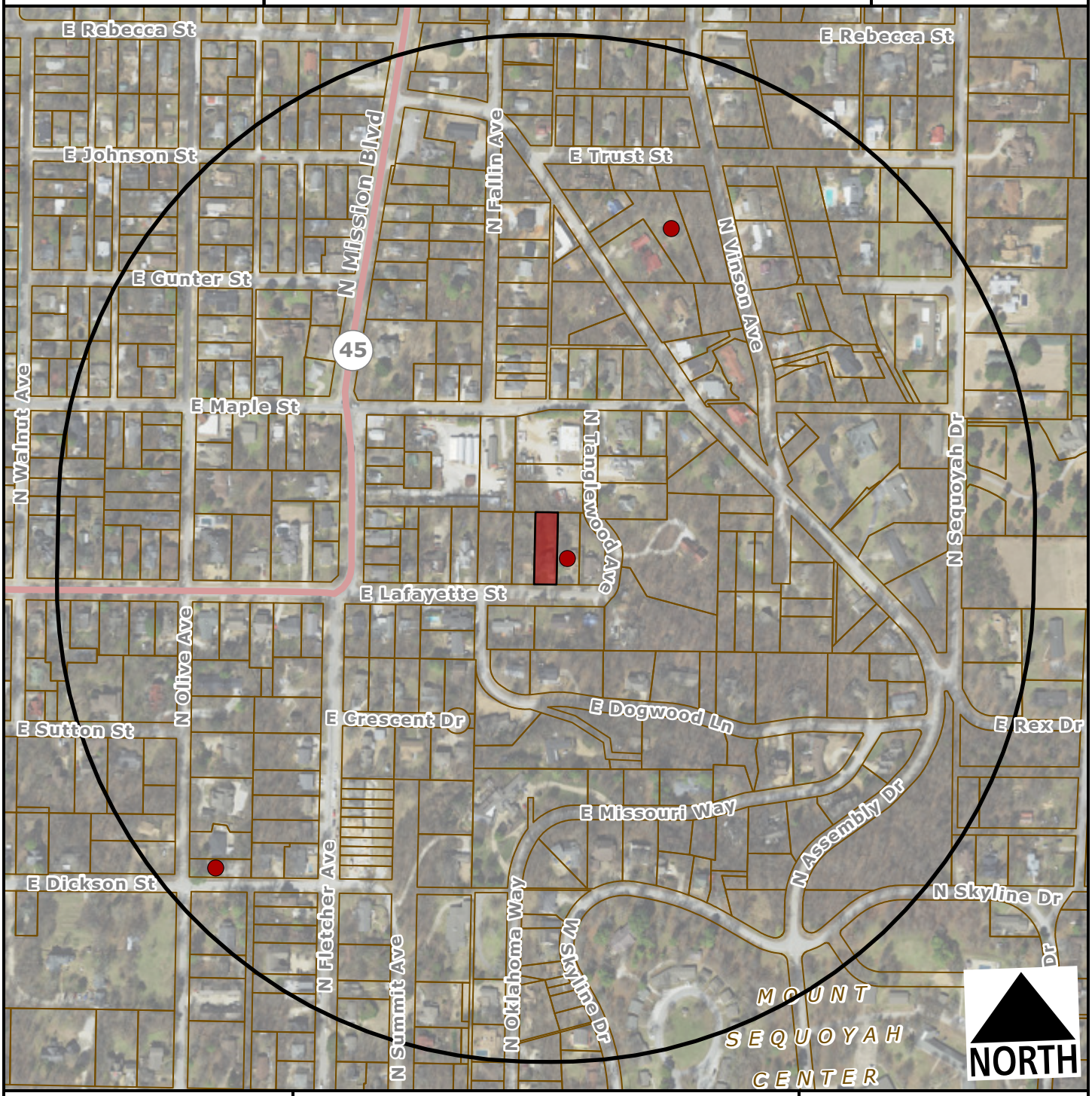
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0036

STRs Within 1/4 Mile

724 E LAFAYETTE ST



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Number of STR Licenses

Contributing to 2% density cap	3
NOT contributing to 2% density cap	0
Total	**3**